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[Tr. 2883-2899]

RUDOLF A. CARRICO

DIRECT EXAMINATION

By Mr. Doub:

Q. Mr. Carrico, where do you live? A. Bryantown, Charles County, Maryland.

Q. And you are a practicing lawyer, I believe? A. At La Plata, Charles County.

Q. Your office is in La Plata? A. Yes, sir.

Q. And that is the county seat of Charles County? A. Charles County, yes, sir.

Q. Now, Mr. Carrico, do you recall doing any legal work in association with Mr. Johnson in early 1961? A. Yes, I do.

Q. What did that case relate to? A. Foreclosure of a mortgage from D. G. & R. to Albert Ernest and assigned by Albert Ernest to the Charles County Land Company, and Mr. Johnson asked me if I would be interested in being associated with him to foreclose the mortgage.

Q. Have you lost your diary for the year 1961? A. Well, it is misplaced, yes, sir.

Q. In other words, you are not able to give the exact dates based upon a diary, then? A. I can give the date that we started the foreclosure proceedings.

Q. Well, now, before that, do you recall when your discussions with Mr. Johnson began about this mortgage foreclosure? A. The only thing I can tell you is some time prior to June 15, 1961, Congressman Johnson called me presumably from Washington and asked if I would be

interested in handling the foreclosure of a mortgage and I asked him what the mortgage was and what land it involved.

Q. What land did it involve? A. The Linda City property, some 7,000—close to 8,000 acres, in the 6th and 8th Districts of Charles County, near Waldorf.

Q. Now, what did Mr. Johnson tell you was the principal amount of the mortgage? A. At that time I do not believe he stated, that is, on the telephone, the principal amount of the mortgage. However, I did tell him that we would have to have a statement of the debt and Mr. Johnson said "Yes, I know that and I will see that you get that."

Q. Now, what was the amount of that mortgage? A. Close to $6 million. I do not have the statement with me. I think you have it.

(Mr. Tydings) I think it is in evidence, Your Honor.

(Mr. Doub) There is no dispute about that.

By Mr. Doub:

Q. Now, did Mr. Johnson tell you where you should obtain the Desser and Garfield original mortgage? A. Yes, sir, he told me that the mortgage was in the office of Mr. F. De Sales Mudd, a local attorney in La Plata. He stated that he had asked Mr. Mudd to handle it for him, handle the foreclosure proceedings but Mr. Mudd had told him that he had been retained by Desser & Garfield, and therefore, there was a conflict of interest and he just could not handle it. So, at that time when he said that, I said, "Well, Tom,"—I call him "Tom," because I have known him for a number of year, "I represented Desser & Garfield one time before the Sanitary Commission, so I do not know whether I can handle it or not," so we discussed that back and forth and he decided with me that he did not feel it would be unethical or any conflict of interest.

However, in order to satisfy my mind that there would be no conflict of interest or any bad ethics in it, why, I went over to see Judge Digges, who is the Judge of our

Circuit Court, discussed it with him and he could see no conflict because I was not retained at that time by Desser & Garfield, and was retained only for the specific purpose to appear before the Sanitary Commission.

Q. Do you recall any conversation with Mr. Johnson with respect to the standard and usual and customary fees for the foreclosure of a mortgage in Charles County? A. Yes, I do.

Q. What did you tell him? A. That the customary fee was six per cent of the sales price if the property was sold. However, if it was settled and did not go to sale, then it would be 3 per cent.

Q. Was it 6 per cent of the sales price, or 6 per cent of the principal amount of the mortgage? A. Well, it is kind of cutting fine teeth. We usually look upon it as sales price, whatever it brings, but you also act based on the affidavit of indebtedness which, in this instance would be the principal amount of the mortgage plus the interest.

Q. And, if a mortgage foreclosure was begun and then the sale was withdrawn? A. Then it is customary to get 3 per cent.

Q. Three per cent of what? A. Of the amount due. That is the principal plus the interest and that is not only customary but it is set forth, I think, in all of our mortgage forms that we use, and I do not remember whether it was in this one or not.

(The Court) You mean it is a matter of contract?

(The Witness) Yes, sir.

By Mr. Doub:

Q. Now, do you recall the provision in the mortgage as to this subject?

(The Court) He said he did not recall. Have you got it in evidence?

(Mr. Doub) What?

(The Court) The witness said he did not recall whether it was in this mortgage or not so the best evidence would be what the mortgage said.

Q. Now, did you then prepare a form of advertisement? A. Yes, I did.

By Mr. Doub:

Q. You drafted one? A. Yes, sir. I might tell you first, I sent my secretary over to Mr. Mudd's office in accordance with the instructions of Congressman Johnson to obtain the mortgage which my secretary did and then proceeded to prepare the advertisement.

Q. Was that mortgage assigned to you for foreclosure purposes? A.Yes, it was.

Q. And what was the next thing you did? A. I prepared the advertisement and I sent a copy of the advertisement that I prepared in accordance with my conversation at Congressman Johnson's request with him over the telephone, I sent it to him and he wanted to review the advertisement before it was put in the papers, and the two papers that he instructed me to put it in was the Washington Post and the Maryland Independent.

Q. Now, I show you a paper and ask you whether you prepared it and what it is. A. Yes, sir, this is a copy of the original draft for the advertisement for the sale of the property with which we are concerned, to wit, the Linda City property.

Q. That was your draft? A. That is a copy of my original draft.

Q. Now, what did you do with that draft after you prepared it? A. sent a copy to Congressman Johnson for his review.

By Mr. Doub:

Q. Did you testify that you sent the draft which you prepared of the advertisement to Mr. Johnson?

(The Court) He said it twice.

(Mr. Doub) All right.

(The Court) Once before you showed it to him, and once after you showed it to him.

By Mr. Doub:

Q. Did you send it with a covering letter? A. No letter.

Q. Why? A. The reason is because Congressman Johnson informed me when we talked over the telephone that he was anxious to get the advertisement in the papers and I told him because of my business and my busy schedule I was just going to draft an advertisement and just put it in the envelope and mail it to him, which I did.

Q. Now, after Mr. Johnson received that draft, what did he do? A. He telephoned me and suggested certain corrections.

Q. And will you explain the corrections which he suggested? A. One of them I know was a change of the date of advertisement. I had it on a Tuesday and he wanted it changed to Monday; also, at the heading of the advertisement, I had "Linda City" set out predominantly whereas Congressman Johnson suggested that we not put it at the top but "Sale of Valuable Real Estate known as Linda City" but to put it in the body.

Q. You made that change? A. Which we did do in the final draft. Also he suggested or recommended as to the terms of sale.

Q. What change did you make, sir, as to that pursuant to his direction? A. Well, if I could see my original and see the copy that I sent him and then the original, I could tell you. Then there was another change that he recommended in reference to tenancy and reservations.

(Mr. Doub) I would like to offer the original draft of

the advertisement as identified by the witness, Your Honor, in evidence.

(The Clerk) Defendant Johnson's Exhibit 31 marked in evidence.

(Defendant Johnson Exhibit 31 marked in evidence.)

By Mr. Doub:

Q. Now, I show you Johnson's Exhibit 31 being your original draft of that advertisement and ask you what other changes you made in it at the direction of Mr. Johnson? A. The one thing he suggested I remember was—I see this now,—was to put in there that the County and State taxes would be adjusted as of the date of sale. That is another thing. Then also he suggested another one. Can I refer to my files and tell you what they are?

Q. Yes, indeed. A. What the change was?

Q. Yes. A. I have to read from the publication in the paper. Toward the end of the advertisement and before the wording as to "all expenses of conveyances, including Government and State Revenue Stamps will be at the expense of the purchaser or purchasers." He suggested that we add this clause:

> "Any reservations, conditions, rights of tenants and so forth, if any, shall be announced on the day of sale."

Q. What changes did you make pursuant to his direction as to provision as to the terms of sale, if any? A. No, there was no change on that.

Q. No change on that? A. No, sir.

I do see one more change, too. I had in my original draft that the property is unimproved, and he suggested that be taken out.

Q. The date of the sale was also changed at his request, from July 11 to July 10? A. Yes.

Q. You testified the date of the advertisement. A. No, the date of the sale, sir.

Q. You are referring to the date of sale. Now, I show you another draft of advertisement and ask you if that is the final edition of the advertisement after you made the changes requested by Mr. Johnson? A. This is a copy of final draft.

Q. Your final draft? A. Yes. And another thing I should point out, I suppose we elected to do, and that is in the copy that I sent Congressman Johnson of the original draft, I had the total acreage up at the top, and he suggested that that be eliminated at the top, so that was elminated.

Q. Now, this second draft, is that in the form in which the published advertisements appeared in the Washington Post and the Maryland Independent? A. Yes, it is.

(Mr. Doub) I would like to offer this in evidence, Your Honor.

(The Clerk) Defendant Johnson Exhibit 32 marked in evidence.

(Defendant Johnson Exhibit 32 marked in evidence.)

By Mr. Doub:

Q. So that a comparison between these two drafts Johnson's Exhibits 31 and 32 would show the changes that you made pursuant to his request? A. That is correct.

Q. I show you what purports to be a copy of a letter to Congressman Johnson from you dated June 15, 1961 and ask you if that is your office copy of such letter? A. This is a copy of a letter which I wrote to Congressman Johnson.

Q. And that came from your files? A. Yes, sir, it came from my file.

(Mr. Doub) I offer it in evidence, If Your Honor please.

(The Clerk) Defendant Johnson Exhibit 33 marked in evidence.

(Defendant Johnson Exhibit 33 marked in evidence.)

By Mr. Doub:

Q. Would you read this to the jury, Mr. Carrico? A. Yes, sir.

"June 15, 1961.

"Honorable Thomas F. Johnson,
"House Office Building,
"Washington, D.C.

"Dear Tom:

"As requested, you will find enclosed this week's Maryland Independent which carries the advertisement for the foreclosure of the Linda City Property on page seven.

"Awaiting the statement of indebtedness in order that I might docket suit,

"Very sincerely yours,

"Rudolf A. Carrico."

By Mr. Doub:

Q. Now, pursuant to your request for the statement of account, I show you a paper and ask you if that is the statement of account which you filed in the proceedings? A. Yes, sir, this is a copy of the statement of account which was sent to me.

(Mr. Tydings) Mr. Doub, are you inferring that that was sent to the witness by Mr. Johnson or not? I think you ought to clear it up. If the witness knows where he got it, he should tell the jury. If he got it from Mr. Johnson, he should. If he does not know, he should tell what he knows.

(Mr. Doub) The last letter which you identified from yourself to Mr. Johnson requested a statement of account.

By Mr. Doub:

Q. Do you know whether— A. Statement of indebtedness.

Q. Yes. Do you know whether this statement of indebtedness was received by you from Mr. Johnson? A. I had also talked to Mr. Johnson over the telephone. There was no forwarding letter with this statement. My conclusion is that it came from Congressman Johnson.

Q. And what was the content of your telephone discussion with him? A. I informed him that we had to have an affidavit of the statement of the indebtedness due on the mortgage. And also in my letter of June 15, I told him that I was awaiting that statement, and then this statement came.

Q. All right.

(Mr. Doub) I would like to offer this, Your Honor.

(The Clerk) Defendant Johnson's Exhibit 34 marked in evidence.

(Defendant Johnson Exhibit 34 marked in evidence.)

(Mr. Tydings) The original statement of account is already in evidence, Government Exhibit 153.

(Mr. Doub) Well, I am sure there is no conflict.

Now, Johnson Exhibit 34 states:

(The Court) Do you wish to put it in again?

(Mr. Doub) I just want to read the first three sentences.

> "Principal amount due as of April 29, 1961, date of assignment to Charles County Land Company, Inc., of mortgage dated January 27, 1958 given by DG&R, Inc. and recorded among the land records of Charles County, Maryland in Liber 41, Folio 497 through 545—$5,905,252.52.
>
> "Interest from April 29, 1961 to July 10, 1961, said date being the date of sale as set forth in Notice of Sale heretofore published at the rate of 1 percent per annum—$11,648.66.

"Total amount due principal and interest as of July 10, 1961—$5,916,901.18, by George G. Woodman," with an affidavit on it.

By Mr. Doub:

Q. Now, Mr. Carrico, did there come a time when you notified Mr. Johnson what the premium on the required bond would be? A. Yes, sir.

Q. And what did you tell him? A. I told him that after review of the law, and as I understood the law, unless he ordered otherwise for costs, the bond had to be the amount of the indebtedness, which in this instance was six million dollars, and that the premium on the bond would be $24,000, unless the settlement was consummated within three months after the date of sale in which instance, it would be $12,000. And those figures I related to Congressman Johnson after I had gotten them from USF&G.

Q. Now, what did Mr. Johnson tell you in response to that? A. Johnson was astounded to hear that the bond would have to be that amount. He said "I just cannot see why we have to put up that amount." And he said, "I want you to go down and see Judge Digges, tell him that the Charles County Land Company, the holder of the mortgage, expects to bid on the property, and the probability is, unless it is settled before that, they will buy the property and see if you can't get the bond reduced."

So, I went over to see Judge Digges and talked to him about it and then thereafter petitioned the Court for a reduction of the bond from $6 million to $600,000. The $600,000 figure came from the 10 per cent deposit that would be required on the date of the sale in the event that all cash was not paid.

And I prepared that petition and Judge Digges signed an order which petition, copy of which petition and order I turned over to you today, and the order read that, as assignee I would put up a bond for $600,000 for the faithful performance of my duties and that, if the property were

sold, however, to some person, firm or corporation, other than the Charles County Land Company, Inc., then I would first have to post the bond to the amount of $6 million rather than $600,000.

(Mr. Doub) Now, if Your Honor please, I think it is clear we are going to take longer—

(The Court) Did you ever post a bond, or was it sold before?

(The Witness) I posted a bond for $600,000, sir.

(The Court) With whom?

(The Witness) U. S. F. & G.

* * * * * *

[Tr. 2904-2914]

DIRECT EXAMINATION (Resumed)

By Mr. Doub:

Q. At the close of the trial yesterday, Mr. Carrico, you testified that you reported to Mr. Johnson that a bond of $6 million would be required in connection with the foreclosure of the $6 million mortgage and that Mr. Johnson replied that a bond in a far less amount was all that was required. Now, after he told you that, did you go to see Judge Digges, the Circuit Judge of your county? A. Yes, sir, I did.

Q. And at that first meeting with Judge Digges on that matter what was his attitude?

(The Court) He has testified that Judge Digges cut the bond to $600,000.

By Mr. Doub:

Q. There were two meetings with Judge Digges? A. The first question arose as to whether he had the power to do that and then I delved into the law and, as a matter of fact—

Q. I just want to ask you now about the first meeting with Judge Digges. At that first meeting you had with him, did he feel the $6 million was— A. He was under the impression it had to be to the amount of the indebtedness due.

Q. Did you then communicate that to Mr. Johnson? A. I communicated that to Congressman Johnson.

Q. What position did Mr. Johnson take? A. Well, he felt that the judge could lower the bond and he indicated that to him it was just unreasonable under the circumstances to require such a bond so then I said to him, I said, "W[illegible] Tom, we have to look up some law on it and see if the [illegible]ge has the authority to lower the bond" and from there I looked up some law and determined that the Judge under the circumstances and all of the situation could, upon petition, in his discretion and judgment lower the bond.

Q. Now, that second talk you had on this subject with Mr. Johnson, will you state whether or not he took the strong position that the judge had the authority to lower the bond? A. He did do that. As a matter of fact, I am pretty certain of this. There came a time where Congressman Johnson was so set in his opinion that it could be lowered, that he telephoned me and asked me to come to Washington to talk further about it.

Q. Asked you to do what? A. Come up to his office in Washington.

Q. And did you go to his office in Washington? A. Yes, sir. And we discussed it further there and he said to me, he usually called me "Ruby" and I called him "Tom"—he said, "Ruby, you go back there and talk with Judge Digges and just tell him that such a big premium that we had to pay or the Charles County Land Company had to pay, rather, and attributable to the fact that the indications are now that if settlement is not made before foreclosure, that Charles County Land Company would bid it in and see if you can't get him to reduce the bond," which I did. You know the rest of it about the petition.

Q. Then you went to him the second time and I think you indicated yesterday that he did fix the bond in the amount of $600,000. A. $600,000, yes, sir, upon the conditions set forth as I related yesterday.

Q. Now, what would have been the premium on a $6 million bond?

(The Court) He testified to that yesterday, Mr. Doub. It is not necessary to have everything testified to twice.

Q. Now, the Court has some responsibility to move the case along. I want you to prove all of the facts that are important but they need not be in twice.

By Mr. Doub:

Q. Did you then file a $600,000 bond? A. Yes, sir.

Q. Did you receive a bill from U.S. F. & G. for the premium? A. I received a bill from them for $1200 provided, however, that in the event the entire matter was not consummated within three months from the date of the sale, it would be $2400.

Q. What was the bill for the bond premium before that adjustment, was it $2400—did I understand it was $2400? A. $1200.

Q. Sir? A. $1200, as I say, was the premium.

Q. Yes. A. But, in the event that the entire matter was not consummated within 90 days from the date of sale.

Q. Yes. A. Then it would be $2400.

Q. $2400? A. Yes, sir.

Q. Was it consummated within 90 days? A. It was consummated within 90 days.

Q. Well, now, later on near the final windup of this matter, will you state whether or not Mr. Johnson asked you to take up with the surety company an adjustment in the premium? A. Yes, there did come a time by way of tele-

phone that Congressman Johnson asked me to write a letter to the U.S. F. & G. Company and see if they could not still reduce the premium. That is, less than $1200 and I wrote a letter to them. However, they did not see fit to reduce it. I turned over to you yesterday the letter that I wrote to U.S. F. & G. and also the reply I received from U.S. F. & G. by way of Ed. L. Sanders, our local agent. The letter being directed to Mr. Sanders rather than to me.

Q. Now, have you any recollection of taking Mr. Johnson on one occasion to the Court House and introducing him to a lady in the Land Records Office at a time when he was interested in looking at certain plats there? A. I have some recollection, yes, sir, of one afternoon just about the time that the Court House was closing, and that would be at 4:30. As a matter of fact, in those days, I believe it was 4 o'clock. Now, it is 4:30 where Mr. Johnson came to my office and wanted to go over to the Court House and I went over there and they were just in the process of closing and, in spite of that, why, I asked one of the ladies there, I first introduced the Congressman and asked if he could see some record.

Q. Now, the date of this foreclosure sale was set for July 10, 1961, was it not? A. That is correct.

Q. Now, what happened that morning? A. A lot of things happened that morning.

Q. Before the scheduled sale? A. I say a lot of things happened that morning. As a matter of fact, I was at the time in a dither. I did not know whether to go or turn—which way to turn, because it had been indicated to me that the sale would not go through; yet that morning every indication was to the contrary. So, I got several telephone calls from Congressman Johnson.

Q. That morning? A. That morning.

Q. Now, at what time that day was the foreclosure sale scheduled? A. It was scheduled for 12 o'clock noon.

Q. Where? A. At the Court House door at La Plata.

Q. All right. Go ahead, Mr. Carrico; what happened that morning? A. And at 12 o'clock noon that day, my office is directly across from the Court House and, being a small county and knowing everybody, I knew a lot of people out there and so on, and I was looking out there and seen all these people around and so forth. I was concerned because I did not know at that time as to whether the sale was or was not going through. As a matter of fact—

Q. Had you heard whether there were negotiations in progress with Desser & Garfield? A. Yes, sir. Mr. Johnson had telephoned me several times that morning and said that he was in conference with the attorneys, as I recall, for the mortgagors in the hope of making the settlement.

Q. And the mortgagors were Desser & Garfield? A. Yes, sir, and there did come a time at approximately 12 o'clock noon—as a matter of fact, it was after 12 o'clock noon—that is the reason I was on pins and needles with the people over there waiting, and the auctioneer was over there, and so on, when Congressman Johnson telephoned me and said that settlement had been made with the mortgagors.

Q. And about what time was that, what time did that call come in? A. The sale was called off just about ten minutes after noon.

Q. After 12? A. Yes. I went over and there was about fifty people there. The auctioneer was there and I announced, as they asked me, that I had just received a telephone call to the effect that the settlement had been made and the sale would be off.

Q. In the earlier telephone conversations had there been requests from Mr. Johnson to hold the sale and postpone it as long as you could? A. I would not be positive if he said it in those words, but he gave every indication along those lines, anyway, when he was talking; yes, sir.

Q. Mr. Carrico, do you recall any discussions with Mr. Johnson during this period with respect to the legal problem as to whether there might be a so-called "merger of interests"? A. Yes, sir.

After settlement was indicated, why, in one of my telephone conversations with Congressman Johnson, I informed him, as a matter of fact, I think the day after I wrote him a letter, I told him that the next move was to petition the Court for the withdrawal of the mortgage and then, as I say, I think I wrote him a letter and told him that I enclosed a release for the proper offices of the Charles County Land Company to release the mortgage. After that move, I, as assignee, signed an assignment back to the Charles County Land Company. That was at the request of Congressman Johnson. When he said that, that that is what he wanted done, I said to him, I said, "Well, Congressman, that, to my mind, would be out of order because, if the property is going to be conveyed as I understand it, to the Charles County Land Company and fee simple title can be obtained by the Charles County Land Company, there would be a merger."

Congressman Johnson said to me, "Well, I do not know about that."

I said, "Well, I don't know for certain but," I said, "That is my opinion."

Then the Congressman said he would look into it.

Q. In other words, did you leave it that you would investigate that question or he would investigate it? A. No, Congressman Johnson said he would.

Q. And you did no further work on it? A. No further work on that. I mean, added to the merger question, no.

Q. Your fees and costs were paid on what date, if you recall? A. September 18.

Q. 1961? A. 1961.

Q. They were paid by a check on what company? A. I

do not know. I know that seems odd for me to say but I had had some trouble getting my money. At least it was delayed. Not trouble, exactly, but it was delayed and I had written Congressman Johnson, I think, three letters, telling him that these bills were due and enclosing him the bills, and so on, and when I got that check— because it was better than $3,000 due, and I was not concerned about my fee as much as I was about the premium on the bond, and other expenses, recognizing too, that if this premium was not paid by October 10, then it would double— when I got that check I was so glad to get it, I just put it right in the bank and I do not know who signed that check or who it came from.

Now, there was a memorandum in the letter but—

Q. Who did you look to for payment, Mr. Carrico? A. To Congressman Johnson. As I told you, I had written him at least three letters which I had turned over to you yesterday.

Q. You had been retained by Mr. Johnson? A. Yes.

Q. For a set fee? A. As local counsel. A fee of $1500 was guaranteed by Congressman Johnson. I ended up, I think, getting $1,497.50 attributable to the assignment back from me to the Charles County Land Company which cost s I recall, $2.50 so when the check came in, I did not bother about the $2.50.

Q. Now, at the time when you were first retained by Mr. Johnson to the end of this legal work, you did, will you tell the jury whether you had a few or a great many telephone conversations with Mr. Johnson? A. I know there were many conversations. I do not know how many. I cannot remember back, sometimes a day or so—to go back to 1960, I could not possibly tell how many there were. I remember on the morning of this sale, for example, there were three or four and prior thereto, I do not know. I never counted them.

* * * * * *

[TR 2937-2961]

DeSALES MUDD

DIRECT EXAMINATION OF MR. MUDD

By Mr. Doub:

Q. Judge, where do you live? A. La Plata, Maryland.

Q. And you are a lawyer? A. Yes, sir.

Q. How long have you practiced law down there? A. Since 1933.

Q. Have you held any governmental positions? A. I was the United States Commissioner for a few years.

Q. No other official positions? A. No, sir.

Q. Why do I keep calling you Judge? A. I think maybe you adopted that term from Congressman Boykin.

Q. What is the name of your partnership in La Plata? A. Mudd & Mudd.

Q. Had your legal firm handled the title to this Waldorf Property of some 8,000 acres over a long period of years? A. Yes, beginning in 1933. When it was acquired by Scott B. Appleby.

Q. So your office was very familiar with that property? A. Yes, sir.

Q. Now, do you recall any meeting with Mr. Johnson in La Plata on May 1, 1961, or do your office records show any such meeting? A. Yes, sir, my diary confirms a meeting in my office on the afternoon of May 1 with Congressman Johnson.

Q. What was the subject of discussion? A. My best recollection is that Congressman Johnson came in without an appointment and inquired if my office had handled this property for Lawyers Title Insurance Corporation at the time it was acquired in 1957 or 1958 by DG & R, Inc., of Maryland. I confirmed that we had.

Q. You confirmed that you had handled the legal title work in the past? A. Yes.

Q. Now, what else was said at that meeting? A. He asked if I had a copy in my file of a commitment, a title commitment that Lawyers Title Insurance Corporation had issued to the purchaser at that time, and I told him I did not, that the commitment had been issued by the Corporation from its Washington office, on the strength of certain title certifications that my office had made after title examinations in conjunction with Messrs. Fondi and Marselek of Lawyers Title Insurance Company.

Q. Do you recall any discussion about how comprehensive the survey had been of the property? A. Yes, he asked if I had any plats.

Q. Talk louder, I cannot hear you, Mr. Mudd. A. He asked if I had any plats of the property, and I told him that I did but I thought perhaps better plat information might be obtained from D. H. Steffens, the County Surveyor, whose office was in town. I believe I explained at the time that this property consisted of basically some 38 tracts and my title plats were plats of various tracts. And that at the time Desser & Garfield, Inc., of Maryland had acquired the property, Mr. Steffens had done some additional planning and put the entire parcel on two very large plats. Copies of those I didn't have but which I thought would be available from the County Surveyor's office, and my recollection is I called Mr. Steffens while Congressman Johnson was in the office to determine if he was available, and I believe the Congressman left my office to go to the Surveyor's office.

Q. What was the discussion as to whether you would participate in the foreclosure of the $6 million mortgage? A. My best recollection is that there was no discussion of that at the meeting on May 1, but in subsequent telephone conversations that matter was discussed. I believe on the May 1 meeting or some subsequent telephone conversation Congressman Johnson had asked my office to

examine the records and confirm to him that this mortgage was in fact a first lien against the subject property.

Q. Now, how long did that meeting on May 1 which you had with Mr. Johnson last, according to your office records? A. My time records indicate approximately an hour and a half.

Q. Now, when Mr. Johnson asked you either in that meeting, or in a later telephone call, whether you would work with him on the mortgage foreclosure, what did you tell Mr. Johnson? A. I ultimately told him that I felt that I should not, by virtue of having represented Desser & Garfield, Inc., at the time it acquired the property and gave the purchase money mortgage and which explanation I think he understood.

Q. Now, when was your next meeting with Mr. Johnson and any others who might have accompanied him? A. You mean personal meetings?

Q. Yes. A. There may have been others in my office. I have been unable to confirm any meeting with Congressman Johnson personally in my office from my office records or from my independent recollection; we did have any number of telephone calls and correspondence and it is possible he may have been in my office subsequent to May 1, 1961.

Q. Well, now, do your records show that on May 10, 1961, you did some work on this title? A. Yes, sir.

Q. Does it indicate you had a meeting that day? A. It indicates an office conference. My time records indicate an office conference on this matter on that date but does not identify with whom the conference was held.

Q. Now, on May 19, 1961, do your office records indicate that you took someone to lunch that day? A. I believe so. I have my diary in my brief case. May I confirm that?

What date was that?

Q. May 19. A. Yes. My diary shows that I was in conference from approximately one o'clock until two-fifteen on that date, regarding this matter, and I charged the firm $6.50 for taking somebody to lunch but I did not attend as a beneficiary. It was in connection with this transaction.

Q. It was in connection with this matter? A. Yes, sir.

Q. June 5, 1961, do you know whether Mr. Johnson was in La Plata? A. I have no such record in my diary which is only a time record on this transaction. That is June 5, you said.

Q. I said June 5, yes.

Now, Mr. Mudd, on June 7, 1961, do your records indicate anything? A. Yes. I have half-hour time charged to this transaction.

Q. Do you know whether Mr. Johnson telephoned you on that day? A. I have no confirmation but it is possible, because we had many, many telephone conversations about this matter.

Q. Well, now, had you, after May 1, 1961, did you proceed to go to work on this title and bring it down to date? A. Yes, sir, and I think probably not as fast as Congressman Johnson wanted because my best recollection is he needled me about it a little during that period and we gave him a written report on June 14 although my covering letter is dated June 14.

Q. Have you any recollection of discussing with Congressman Johnson on the telephone the fact that the so-called "window" had been released from the lien of the mortgage? A. Yes, sir, that was one of three or four phases of the matter. He asked us to investigate. No. 1, as I mentioned was to confirm that this mortgage held by Ernest was in fact a first mortgage against the subject property and No. 2, that some approximately 100 acres that had been released from the purchase money, $6 million mortgage, was free and clear and not encumbered, and

I think he asked specifically about mechanics liens because the owner, D & GR, Inc., of Maryland had done extensive work on this released area and he apparently was apprehensive that some of that work may not have been paid for and that released area might be subject to possible liens for unpaid improvements. And we did give him a report on that.

Q. Does your diary show you did some work for Mr. Johnson on July 17, 1961? A. July 17.

Q. I am getting a little ahead of myself here. Suppose I strike that out. Is this a letter or an office copy of a letter you wrote Mr. Robinson dated June 14, 1961? A. Yes, sir, this is my file copy of such a letter which indicates that the actual title work was probably done by my associate at that time, Frank G. Parrin, and the letter was drafted by him for my signature.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson's exhibit 35 marked in evidence.

(Defendant Johnson exhibit 35 marked in evidence.)

(Mr. Williams) Mudd to Robinson, is that right?

(The Clerk) Letter dated June 14, 1961. It says "To Robinson from Mudd."

By Mr. Doub:

Q. Would you read that to the jury, Mr. Mudd? A. This letter dated June 14, 1961, addressed to Mr. W. L. Robinson, care of First Colony and Continental Savings and Loan Association, 5410 Wisconsin Avenue, Chevy Chase, Maryland.

"Dear Mr. Robinson:

"Enclosed you will find the original and a copy of our Opinion of Title with respect to the mortgage which your company has acquired from Albert Ernest, and which I trust is sufficient for your purposes:

"Our certificates shows the mortgage to be in favor of Ernest for the reason that the assignment to your company was not a matter of record at the time we made our last check, and our certificate must necessarily be according to the situation as of record. If, for any reason, this certificate is not sufficient for your purposes, kindly advise.

"Also enclosed you will find two copies of the contract of purchase by and between Charles County Land Corporation and Mr. and Mrs. Allison F. Ryon, and which have been executed on behalf of the sellers. I have represented to Mr. Ryon that the purchasing company would execute both copies and return one to me for delivery to the sellers. I call your attention to the fact that paragraph 8 has been rewritten in order to obligate the purchaser to pay all conveyancing costs except Federal documentary stamps. It was the final decision of the Ryons to make no objection to the contract in its original form except to request that paragraph 8 be revised in this manner and which I took the liberty of doing.

"Very truly yours."

Q. Do you know why you wrote that letter to Mr. Robinson rather than Mr. Johnson—have you any recollection of that? A. No, sir, I can only speculate that Congressman Johnson directed—

Q. Had you met Mr. Robinson prior to the date of that letter? A. I met Mr. Robinson at some stage of these matters but whether it was before or after this letter, I do not recollect.

Q. Did you have any discussions with Mr. Johnson regarding the Collier property? A. Yes, sir.

Q. And what were they about? A. Well, my best recollection is that on the occasion of Congressman Johnson's initial visit, I told him that our office was in the process of handling possibly three phases of this matter for D. G. & R., Inc., of Maryland at the time its development of the property terminated and one involved the acquisition of

the Ryon tract, another an exchange for property with Gulf, and another perfecting the title to 9 acres of the Collier tract. The Collier tract having been acquired, I believe, not by Ernest but by either Washington Lumber and Turpentine Company or Tensaw Land and Timber Company, prior to the sale to D. G. & R. Inc., of Maryland.

Q. In other words, there had been negotiations for the purchase of the Collier property prior to the deed of this property to Charles County Land, is that correct? A. Yes, that is correct.

Q. And now after the conveyance of the property to Charles County Land Company, what was done with respect to these pending acquisitions? A. We obtained at some stage of the proceeding a quit claim or confirmatory deed to, I believe, nine acres of the Collier tract concerning which the title was not perfected at the time it was required, either by Tensaw or Washington Lumber and Turpentine Company.

Q. How about the Ryon tract that you mentioned? A. At the time Congressman Johnson came to my office on May 1, I believe, 1961, I think I acquainted him with the fact that D. G. & R., Inc., of Maryland, had contracted to purchase from Ryon 199 acres plus, which was a wedge-shaped parcel of land fitting into this 7,000 or 8,000 acres but that the corporation had not consumated the purchase and that, if his client proposed to acquire this property, that he might be interested to know that this Ryon matter had been under contract but had not been concluded. And therefore, he authorized me to conclude that transaction for Charles County Land.

Q. And the Ryon tract was then bought by Charles County Land? A. Yes.

Q. And the Ryon tract was conveyed to Charles County Land Company? A. Yes, sir.

Q. And you handled the settlement on that? A. Yes, sir.

Q. Now, I show you what purports to be an office copy of a letter—

(Mr. Robinson) Your Honor, before we get to the next letter, could we take a short recess, please, sir?

(The Court) All right.

The jury will take a five-minute recess.

(Brief recess.)

By Mr. Doub:

Q. Mr. Mudd, I show you what purports to be an office copy of a letter from you to Charles County Land Company, in care of The Honorable Thomas E. Johnson, dated July 17, 1961, and ask you whether you wrote that letter? A. Yes, sir, I did.

(Mr. Doub) I would like to offer this letter in evidence.

(The Clerk) Defendant Johnson's Exhibit No. 36, marked in evidence.

(Defendant Johnson's Exhibit No. 36 marked in evidence.)

By Mr. Doub:

Q. Will you kindly read that to the jury, if you will? A. Yes, sir.

This letter dated July 17, 1961 is addressed:

"The Charles County Land Company, Inc.,

"C/O Hon. Thomas E. Johnson

"Snow Hill, Maryland.

"Re: Desser & Garfield (Md.), Inc. Property described in Release dated March 21, 1960, recorded in Liber No. 147, Folio 508

"Gentlemen:

"Our examination of the pertinent Charles County Land Records as indexed by the Cott System in the Office of

the Clerk of the Circuit Court for said County from March 28th, 1958 at 3:30 P.M. (the date and time of our report to Lawyers Title Insurance Corporation on the subject property, a copy of which has been furnished you) through July 14th, 1961 at 4:30 P.M., discloses the following changes by way of supplement to the March 28th, 1958 report.

"1. Deeds from Albert Ernest and others to Desser & Garfield (Md.), Inc. (or by whatever name or names the grantees are identified of record) transferring title to the said nine parcels, and copies of which said deeds we believe are available from your files.

"2. Deed from William J. Collier and wife, dated February 5, 1960, recorded in Liber 147, folio 76, for the nine and one-fourth acres referred to as Parcel 8 in the report to Lawyers Title Insurance Corporation, the effect of which deed is to release and quit-claim unto the Grantee any and all right, title and interest the Grantors may have in and to said nine and one-fourth acres, and which said deed gives the Grantee the benefit of the adverse possession right of the Grantors set forth in Exception A of the original report.

"3. Right-of-way easement and plat from Albert Ernest et a., dated March 28, 1960 and recorded in Liber 147, folio 514, to the extent that the same may effect the released parcels.

"4. The possible effect (front foot easements) of the 20 foot easement for water lines between the roads, as granted to Charles County Sanitary District, Inc. by the indenture dated January 23, 1961 and recorded in Liber 152, folio 249.

"5. State and County taxes for the fiscal year beginning July 1, 1961 now due and payable for part of the total amount of $7,075.18; such taxes subsequent to the current fiscal year; such taxes, assessments or liens against so much of said property within the recently created Sanitary District as may be subject thereto.

"6. The exceptions set forth in our report of March 28, 1958, identified as C through I, both inclusive, as well as the concluding paragraph of the report of March 28, 1958, are still applicable to a current report on the title to the subject property.

"This status report includes no certificates as to acreage, accuracy of description; does not certify against unrecorded Mechanic's Liens—

(The Court) Mr. Doub, can't we just take so much for being read? Do we care about all the ultimate details of this?

(Mr. Doub) I think he is almost finished.

(The Court) This is a title report with references to deeds and title references and the usual exceptions and so forth.

(Mr. Tydings) The Government will accept any description Mr. Mudd wants to make of the document, and you can pass it around to the jury, if you like. Mr. Doub. I think it will speed this along. Just ask Mr. Mudd what the letter is and give it to the jury.

(The Court) Just summarize what they are.

(Mr. Doub) Very well, Your Honor.

By Mr. Doub:

Q. I show you what purports to be an office copy of a letter from you to Mr. Johnson, and ask you whether you wrote that letter to him? A. Yes, July 18, 1961.

(Mr. Doub) I offer it in evidence, Your Honor.

(The Clerk) Defendant Johnson's Exhibit No. 37 marked in evidence.

(Defendant Johnson's Exhibit No. 37 was received in evidence.)

(Mr. Doub) Well, this is a short letter, Your Honor, of only a paragraph. Will you read that please?

(The Witness) (Reading)

"July 18, 1961

"Honorable Thomas E. Johnson
Room 141, Old House Office Building
Washington, D. C.

Dear Congressman Johnson:

"After the transfer of title to the Charles County properties from Desser & Garfield (Md.), Inc. to The Charles County Land Company, Inc. had been concluded here yesterday, I was instructed to send a bill to you for our services to date.

"Frankly, our services in this matter are difficult to evaluate, and I had no basis other than the time involved, some of which had to be on an emergency basis with a lot of after hours work. The enclosed bill, therefore, represents the time that we have spent in answering the several inquiries regarding this property, examination of the records and telephone and written reports, as well as conferences that we have had with officials of the company and counsel from the date you first came to the office to discuss the situation. I, therefore, trust you will consider the charge reasonable, and we have not attempted to bill you for title services or on the basis of the value of the property involved for the reason that we have not given the final and conclusive title opinion, but in the sense have given you the benefit of our files, plus interim reports.

"Very truly yours,

"F. DeSales Mudd"

By Mr. Doub:

Q. I show you what purports to be a letter from Mr. Johnson to you and ask you if you received that letter? A. Yes, I did. The letter is dated July 21, 1961.

(Mr. Doub) I offer it in evidence, Your Honor.

(The Clerk) Letter dated July 21, 1961, Defendant Johnson's Exhibit No. 38, marked in evidence.

(Defendant Johnson's Exhibit No. 38 was received in evidence.)

(Mr. Doub) It is addressed:

"F. DeSales Mudd, Esq.

La Plata
Maryland

Dear Mr. Mudd:

"I understand that the Lawyers Title issued a Title Commitment on all or a major portion of the Waldorf property some time during 1958, based on your Title Opinion. I am wondering if it is possible to secure a copy of same.

"Your statement has been forwarded to the Company with the instructions that check be issued.

"With kind personal regards, I am

"Sincerely yours,

"Thomas F. Johnson."

By Mr. Doub:

Q. Now, I show you what purports to be an office copy of a letter to Congressman Johnson from you dated August 2, 1961, and ask you if you wrote that letter? A. Yes, sir, I did.

(Mr. Doub) I offer it in evidence, Your Honor.

(The Witness) I might say I don't believe the longhand postscript on that copy appeared on the original.

(The Clerk) Defendant Johnson's Exhibit No. 39 marked in evidence.

(Defendant Johnson's Exhibit No. 39 was received in evidence.)

By Mr. Doub:

Q. Will you read that letter to the jury, sir? A. Do I read it or summarize it?

(The Court) If he wants it read, read the whole thing.

(The Witness) (Reading)

"August 2, 1961

"Honorable Thomas F. Johnson

Room 141 — House Office Building
Washington, D. C.

Dear Congressman Johnson: Re: Ryon Purchase

"I wish to confirm that Mr. and Mrs. Allison F. Ryon are now ready and willing to deliver the deed for their farm property to the Charles County Land Corporation, and we are prepared to make settlement. In this connection, we enclose the following:

"1. File copy of deed executed by the Ryons, and which you will note from the second page contains reservation of possession in favor of the Sellers consistent with the provisions of the contract in this respect.

"2. The original and a copy of the mortgage note and mortgage to be executed by the officials of the purchasing corporation, in the amount and terms specified in the contract. You will note that the mortgage includes (as the contract requires) the two release clauses and the subordination clause contained in the contract of sale. We did not know the names of the officers of the purchasing corporation, which can be filled in at the time the mortgage and note are executed, and returned to us with settlement instructions.

"3. Original and one copy of a settlement sheet, one copy of which we will thank the purchaser to approve and return. The contract requires taxes, etc., to be adjusted to December 31, 1961. Since our taxes are levied on a fiscal year from July 1 to June 30th, and taxes for

the current fiscal year in the amount of $180.36 are now due and payable on this property, and must be paid before the deed can be filed for record, we have charged one-half of the amount to the Sellers, and billed the purchaser for one-half. It is my understanding that there are no rents to be adjusted, and it is assumed that the Sellers will cancel their insurance on December 31, 1961, and that the purchaser will place in force as of January 1, 1962, insurance in the amount required by the mortgage which would appear reasonable.

"4. Our bill for services and disbursements incident to closing this transaction, including purchaser's share of taxes for the current fiscal year.

"If the purchaser desires owner's title insurance, we are in a position to obtain same at this time at the standard rate by the several companies, which in this instance, would amount to $265.00.

"If there is any question, you can telephone me, and you will understand that the closing cannot be concluded until the executed note and mortgage are delivered to the Sellers at settlement. I, of course, have in hand the funds representing the initial $10,000.00 payment. The question has not been raised, but you might consider whether it is advisable under the circumstances that the Sellers have a certified copy of the resolution of the purchaser corporation approving the acquisition of this property for the corporation, and the execution of the mortgage by the appropriate officers.

"With kindest regards, I am

"Sincerely yours,

"F. DeSales Mudd."

Q. Mr. Mudd, returning to the letter Mr. Johnson wrote you, dated July 18, 1961, in which he asked you to send him a copy of the title commitment, which you had made in 1958 for Lawyers Title, and I notice that in the succeeding letters you did not send him that.

Did there ensue after you received his letters some telephone discussion with him about that matter? A. I am reasonably certain we did have telephone conversations which explain the fact that I as a local attorney for Lawyers Title Insurance Company did not have a copy of its title commitment, but all I had was a copy of my report or one of my reports to Lawyers Title Insurance Corporation, on the strength of which the title insurance company issued the commitment.

Q. Well, will you state whether or not you told Mr. Johnson where a copy of that commitment could be obtained by him? A. Yes, sir. My recollection is that I told him that it had been issued from the Washington Office of Lawyers Title Insurance Corporation, and that I had worked with Mr. Fondi and Mr. Marsalek in connection with this title commitment; that Mr. Fondi was no longer with the company, and I suggested he contact Mr. Marsalek, who worked out of the Washington office, but lived in Baltimore.

Q. Do you know whether Mr. Johnson did communicate with Mr. Marsalek? A. I have no knowledge of that.

Q. Did you receive a letter dated August 10, 1961; from Harry Adelberg? A. Yes, I did. I received the letter dated August 10th, the original of which you have, from Harry Adelberg.

(Mr. Doub) I offer it in evidence, Your Honor.

(The Clerk) Defendant Johnson's Exhibit No. 40 marked in evidence.

(Defendant Johnson's Exhibit No. 40 was received in evidence.)

(Mr. Doub) This is on the letterhead of Mr. Harry Adelberg, 1235 Mathieson Building, Baltimore 2, Maryand.

"August 10, 1961

"Mudd & Mudd

Attorneys at Law

La Plata, Maryland

Attn: F. DeSales Mudd, Esquire

"Re: Charles County Land Corporation Purchase of the Ryon property

"Gentlemen:

"Your letter of August 2, 1961, directed to my associate, The Honorable Thomas F. Johnson, has been referred to this office.

"May I suggest the following changes in the mortgage:

* * * * * *

Q. Going back to early May, 1961, did Mr. Johnson ask you to deliver the original mortgage, $6 million mortgage from Desser & Garfield to Mr. Carrico, or did Mr. Carrico ask you to deliver it to him? A. My best recollection is that Congressman Johnson asked me to deliver it to him.

Q. Is that the mortgage—was that for mortgage foreclosure purposes? A. Yes, sir.

Q. Did you ever meet a Mr. Edlin? A. I think on one occasion. I am sure I met him. I have no recollection except on one occasion.

Q. When was that? A. I can not say. My best recollection—my best estimate would be some time in 1961.

Q. Did you ever meet Mr. Robinson? A. Yes, sir.

Q. Where? A. In my office.

Q. And was he by himself or with someone? A. He was. I am quite sure when he came to my office he was with someone but I do not recollect who at the moment.

Q. Is it possible that could have been Mr. Johnson? A. It is possible, yes, sir. I might say that my records un-

fortunately do not disclose who I saw in the office, if I did not have an appointment.

Q. Will you state whether or not you have any recollection of Mr. Johnson's telling you in the latter part of July, 1961, that he was preparing to leave the country and this matter was going to be handled by anyone else other than himself? A. I am sure I had instructions from him to make reports to Mr. Robinson but I do not have an independent recollection of his telling me that he expected to leave the country.

(Mr. Doub) That is all.

* * * * * *

[TR 3019]

ISABELLA J. KICAS,

* * * * * *

[TR 3021-3025]

Q. Where do you live? A. 6710 Windsor Mill Road, Baltimore 7, Maryland.

Q. Now, were you employed by Mr. Harry Adelberg during the year 1961? A. Yes, I was.

Q. All during that year? A. Yes, sir.

Q. Now, do you recall in April, 1961, Mr. Johnson and Mr. Robinson being in Mr. Adelberg's office? A. Yes, I do.

Q. Do you recall the date? A. It was a Saturday and it was the 29th of April.

Q. Now, why do you remember the date April 29, 1961? A. Well, my daughter and I had moved in to a very pretty apartment on the 21st of April and we were busy fixing it up and when Mr. Adelberg called, it was a Saturday and we were hanging drapes in the living room and I had to drop my end and go and I just remember it, that is all.

Q. Now, this is on a holiday, April 29 was Saturday? A. It was a Saturday.

Q. And you were not regularly working that day? A. No.

(The Court) She said that twice, Mr. Doub. Let us get ahead.

By Mr. Doub:

Q. How did you happen to go to the office that morning? A. Well, Mr. Adelberg had told me the day before he might need me but unless he called me, I was not to come in and he called.

Q. He did call that morning? A. Yes, sir.

Q. About when did you arrive at the office that morning? A. Oh, I would say 10:30.

Q. And who was there? A. Congressman Johnson and Mr. Robinson and Mr. Adelberg.

Q. And were there any secretaries there? A. Yes, there were two girls there.

Q. What were their names? A. One was actually a client. She had come in for an early morning appointment. Mrs. Lilly Nelson and Mr. Adelberg needed a secretary which she was, for another firm, and he asked her to stay and do some work until I got down there.

Q. What was the name of the other secretary? A. Her first name was Rosalie. I did not know her last name. I only saw her once.

Q. Was it Brenner? A. She said she had worked for Judge Thomsen at one time or another.

(The Court) Our firm had a girl who married a man named Brenner. She was a good typist.

(The Witness) Well, then, that is the girl that was there.

(The Court) She was never my secretary. She was Mr. Smith's secretary. She was a competent girl.

By Mr. Doub:

Q. What did you do after you arrived there? A. Mrs. Nelson was at my machine working on some documents and Rosalie was at the other machine which were all there were, so Mr. Adelberg said, "You come in and start taking dictation, and by the time you are finished taking dictation Mrs. Nelson has to go and her machine will be vacated and you can start to transcribe," so that is what I did.

Q. Who dictated to you that day? A. Mr. Robinson started, Mr. Adelberg and Congressman Johnson were sitting there, and they would stop and confer, and when Mr. Robinson dictated quite a long document, I went out to my machine. Mrs. Nelson had gone in the meantime, and Congressman Johnson came out and he said "Transcribe that in the rough and then show it to me," and so I did, on the yellow paper, you know, and then he read it and then he said, "Come on over" into one of the associate's offices, and he dictated again. This and some more things.

Q. You mean he redrafted it? A. Yes.

Q. And then did you write it up, type it up? A. Yes, I did.

Q. And what was Mrs. Brenner doing? A. Well, she was working on some other documents.

Q. Now, do you have any recollection of the documents which were dictated by Mr. Robinson and Mr. Johnson that day? A. Well, I think it had to do with Charles County Land Company.

Q. Charles County Land? A. We had many, many documents and after this space of time, it is a little hard to say just exactly which ones they were.

Q. Have you any recollection of the name Desser & Garfield? A. Yes, sir.

Q. But you do not recall the specific documents by name, whether they were loan agreements or anything? A. There was a loan agreement.

Q. How long did this work continue on that Saturday? A. Well, I guess it was four o'clock when I left and they were still there working. They said they were going to keep on working. I had an engagement and said I would have to go.

Q. At 4:30 when you left, was Mr. Johnson still working and Mr. Robinson still working? A. Yes.

Q. And were the other girls still there, or one of them? A. No, Mrs. Nelson had gone. As I said, she was a client. She was just retyping some documents that had been done and had been revised. I do not think the other girl stayed there that long. I am not sure.

* * * * * *

(Vol. 25 [3040]) Therefore,—

HARRY ADELBERG

was called as a witness by and on behalf of Defendant Johnson, being first duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Harry Adelberg.

(The Clerk) Spell your name.

(The Witness) A-d-e-l-b-e-r-g.

[3041] DIRECT EXAMINATION

By Mr. Doub:

Q. Mr. Adelberg, where do you live? A. 5514 South Bend Road, Baltimore, Maryland.

Q. And you are a lawyer, a member of the Baltimore Bar? A. I am, sir.

Q. And you offices are where? A. At 1235 Maryland National Bank Building, Baltimore.

Q. And you are a friend of the Defendant Thomas Johnson? A. I have known Congressman Johnson for perhaps fifteen or twenty years. I have known him well.

Q. And, as a matter of fact, does his name not appear on the door of your law firm at 10 Light Street? A. His name is on my front door, yes, sir.

Q. How long have you had any business association with Mr. Johnson? A. I would say, Mr. Doub, perhaps as long as fifteen years. That is an estimate. I do not know accurately, and I might say by way of explanation, with respect to the Congressman's name on my door. I would say his name has been on my door for perhaps ten to twelve years and is on my door under these circumstances:

He has his name on my door. His name is in the [3042] telephone book under my telephone number. He does not maintain an office in my suite. He does not have a desk, but at all times my office or any office in the suite has been available to him for his use.

I might say further that during the past years it has been a very happy association. He has referred cases to our offices that we have handled from time to time, and when the occasion permits I have referred matters to him.

Q. Now, turning to February 1961, do you recall receiving a telephone call from Mr. Johnson telling you that he had found something in looking at some Cassell mortgages? Do you remember that? A. I would say that perhaps in February of 1961 I received such a call from the Congressman, and at that time my recollection is that he told me that he would like to have me review some mortgages in a building association portfolio.

He indicated that he felt that there were some legal questions involved; that there was some deficiencies, but I do not believe that he expressed an opinion to me. He wanted to get my views to confirm his views. As a result of that inquiry—

Q. What did he ask you to do? A. He asked me to visit the building association, which was in Chevy Chase, Maryland.

Q. What was its name, First Continental? A. First Continental Savings and Loan Association offices, but, as a matter of fact, the portfolio of mortgages that I examined at that place were not only First Continental mortgages, but it included a large portfolio of First Colony mortgages. First Colony Savings and Loan Association, I think the name was.

Q. Then, as I understand what you have just said, Mr. Johnson asked you to go to the office of First Continental and examine mortgages there of First Continental and First Colony? A. That is right, sir.

Q. Did he ask you to check the whole mortgage portfolio of both companies? A. Those were his requested instructions.

Q. What did he ask you to check for? A. Well, I know what I found, and I believe in the conversation with him—

Q. No, before you get to what you found, tell us what he asked you to look for? A. I would say legal deficiencies in the mortgage, with particular regard to a deficiency in the affidavits.

Q. Under the Maryland law a mortgage requires an affidavit of consideration, doesn't it? A. That is correct, sir.

Q. That the consideration stated in the mortgage had been actually paid? A. That is correct, sir; that is, Mr. Doub, it requires an affidavit by the mortgagor to the effect that the mortgagee's mortgage, and an affidavit by the mortgagee that the consideration has been paid that is recited in the mortgage.

Q. Did Mr. Johnson tell you why he wished you to do this? A. I thought we already covered that, Mr. Doub. He indicated he wanted me to examine those mortgages to confirm his opinion that the mortgages may be deficient.

Q. Now, did you then go to Chevy Chase and examine the mortgage portfolios? A. I do not remember the exact date, but thereafter, certainly within a couple of weeks, I assume, I visited the Chevy Chase office on Wisconsin Avenue in Chevy Chase, a comparatively new or modern building, of the First Continental Savings and Loan Association, and I there met a Mr. Robinson and some other people, whose names I now know, but I am not certain as to who was present at the time.

I spent several hours in the offices of the building association, and I reviewed the mortgages generally, but it was too much work for one casual visit. I saw sufficient to justify the suspicion of the Congressman.

Upon my return to Baltimore, I assume, I called him and—in any event, I spoke to him over the telephone and confirmed his view—at least I confirmed the view that these mortgages were deficient. They were without the affidavit of consideration.

Thereafter there were other conversations, but I suppose you want to ask about them.

Q. Now, before you get to that, were the mortgages that you are referring to mortgages made to A. I. Cassell? A. The mortgages that were deficient were the Cassell group of mortgages. Most of the mortgages were the Cassell group. Let me correct myself. All of the Cassell mortgages I do not believe were defective, but there were some 305 mortgages that were defective.

Q. And were those purchase money mortgages on individual lots which had been sold to buyers by Cassell? A. That is correct, sir.

Q. And then had those mortgages been pledged with First Continental or First Colony as security for loans? A. That is substantially correct. Actually, what appeared to be the picture, and at that time I had no doubt on that aspect, but I later learned that there was a general loan agreement and a general mortgage between Cassell and

the First Colony Savings and Loan Association, and I might say, incidentally, as a result of those negotiations and examinations of mortgages I did meet Mr. Cassell, but the portion of those mortgages which related to lots that were sold publicly were all defective mortgages.

Apparently as each lot was sold a separate mortgage was created on the individual lots. I might say that I examined my records, and those 305 mortgages totaled $973,000, and some odd cents and so forth, and each mortgage was individually bad.

Now, if I may—does that answer your question, Mr. Doub?

Q. Yes. A. All right, sir.

Q. And did you after making that examination report what you had found to Congressman Johnson? A. I did, sir. I am not sure whether Congressman Johnson called me or I called him, but I know I so informed him and advised him and confirmed his suspicions or his judgment.

Q. And what happened next? A. Thereafter we had some discussions about it, and then the mortgages at my request were all brought to my offices. I think Mr. Robinson, who is at the trial table, brought those mortgages to my offices, and then we made a rather careful examination.

Now, I might say this, that the mortgage forms were substantially alike, but we felt it necessary before we passed on 305 mortgages to examine 305 mortgages.

After we examined the papers, two problems came into being. The first, Robinson refused to accept either my judgment or the Congressman's judgment that the mortgage was defective. We then had to research some law, and I submitted my memorandum or my work to Mr. Robinson.

He still wasn't satisfied, and then some time during that period of time the Congressman came to the offices and these mortgages were placed in the room of one of my

associates, in Mr. David B. Rudow's room, and the Congressman went in there, and he spent some time examining the mortgages.

After that while he was still in the offices, as a matter of fact, he apparently engaged in some research while in the offices. I say that because in examining my own files, I found a handwritten memorandum of the law prepared by the Congressman in my files, and attached to the papers that were part of the Cassell mortgage examination.

A very peculiar thing happened. Robinson continued to be unhappy, even though we pointed the law out to him until he had occasion to record a mortgage. I am trying to remember the name of the lawyer. I think he was in Mr. Sasscer's office and Mr. Sasscer promptly told him that mortgage which was not of that same type was deficient because it lacked an affidavit of consideration. Apparently Mr. Sasscer had the occasion to reconfirm that view.

He promptly returned to my offices and started discussing the method of correcting this deficiency. It was my judgment at first that it was desirable that each mortgage be confirmed individually because they involved perhaps different interests.

Robinson strenuously opposed this view and the reason for his opposition was a very simple one. It first required the execution of the 305 mortgages. The expense of recording affidavits and all the other incidental expenses and he tried to come up with some view, I think he called it an assignment or indenture, and I refused to accept his views or judgment in that area. We discussed it with the Congressman over the telephone and perhaps, in person, but I want to say to you, Mr. Doub, in that area, I am a little confused as to the Congressman's participation. I do not remember whether he was in the offices or I spoke to him over the phone.

Q. Were you and the Congressman in agreement or disagreement as to your final conclusion as to what recom-

mendation immediately should be followed? A. Entirely in agreement and, as a matter of fact, we finally worked out a confirmatory mortgage for the entire group of three hundred five, bringing out, I think there was 311 mortgages but removing from that group that was confirmed in the single document, the 305 mortgages.

Now, I might say that this extended over a period of a couple of months.

Q. The work on this matter? A. The work on this matter. First one of the reasons was that Robinson refused to accept our judgment immediately and then it was a question of catching up one with the other. But I know that we finished at some time in, perhaps, mid-April or early April or thereabouts and I think that the papers were finally recorded perhaps in May, but my memory in that respect is bad because I did not record them. I gave them to Robinson for execution, for procurement of execution and recordation and I am assuming that it was properly done. But that is the picture in that area, sir.

Q. Now, you mentioned that there was a basic underlying mortgage made by A. I. Cassel. Did you find that that basic mortgage was defective or— A. There was an overall mortgage that I found that was a good mortgage. At least in our judgment it was a good mortgage. That was a basic mortgage. But actually, in technical handling of that mortgage, I did not approve of their procedures and the reason for that is this: While they had a mortgage on the whole, they were then creating individual mortgages on individual lots as the individual purchaser would purchase. It seemed to me that good policy and good operation demanded that, as a purchaser would come in with an individual interest that mortgage should be released, the basic mortgage should be released as to the individual lot so that the lien should be limited to the proper lien and the proper indebtedness.

But I did not get into that too far because it was not within my province and at that time I think that was just

about the first dealing I had with Mr. Robinson, although I have a vague recollection and I am told that I met him sometime before that, but it is not specific in my recollection. I just do not remember.

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[TR 3056-3076]

By Mr. Doub:

Q. Mr. Adelberg, did Mr. Johnson bring you into the mortgage foreclosure case with respect to the Desser and Garfield $6 million mortgage in Southern Maryland? A. That is a very difficult question to answer exactly as you propounded it. Mr. Robinson, sometime in April of 1961, came into the offices with the Desser & Garfield mortgage. It was a $6 million mortgage and he indicated that he or his interests, he represented parties who wanted to take over this property and had some interest in it. We discussed the mortgage and started tearing it apart because it was an unusually drawn instrument with a note, while apparently a note merely set forth terms that carried with it no personal liability or obligation. In the course of the discussion I know that I spoke to Mr. Johnson.

Q. Do you know whether Mr. Johnson sent Mr. Robinson to you on that occasion? A. I know that Robinson was in. I know that Robinson would come to me only as a result of Mr. Johnson or Congressman Johnson's reference but at the time Robinson walked in directly but in the course of the morning discussion, I might say to you, we spent an entire day in the discussion and examination of the law. Other members of my staff joined in. We examined law and we called the Congressman on the phone and there were a number of discussions. I do not remember the Congressman in that day, although I might say to you, Mr. Doub, that some suggestion has been made that he was in. I do not remember him. I know that I spoke to him about it and I believe it was on the telephone. We reviewed the mortgage and it was a very tricky mortgage and very frankly, after we reviewed it and we came to a fixed conclusion and I say

it took just about an entire day. We examined law. I had different men in the office examining the law, coming back with references. We discussed it backwards and forth and finally came to a conclusion.

There was a question whether we would execute or proceed on the note, whether to proceed on the mortgage—whatever the recommendation would be.

I might say to you, too, that at that time I did not know Desser & Garfield. I do not know them now. I have never seen them nor heard of them other than this reference and several references subsequently. There was a man by the name of Ernest who was the mortgagee or owner of the paper. I do not know Ernest, never saw him and never heard of him except by reference.

We worked on it, as I said, just about the entire day. Robinson then left with these papers with our recommendations and I heard nothing further about it until about the first of May when Congressman Johnson called on the telephone and discussed language of a notice that he was sending to Desser & Garfield indicating default in the mortgage and note.

Q. You mean giving him notice? A. Giving him notice of default. I discussed the language with the Congressman. He then called back, I think the next day and by that time I had made some research. He apparently had engaged in some research and he then revised his notice as a result of combined discussion and I think he, at least he said, I do not know this but at least he told me that, based on our conversations, he was going to send a second notice. I heard no more about the Desser & Garfield mortgage. I do not know its disposition. I might say, incidentally, while Mr. Robinson was in the offices and we discussed the note, he also indicated that there was some possible room for purchase of the Desser & Garfield interest, but he regarded their claim as so extravagant at the time that he was not interested and this was a rather extensive and long discus-

sion and I am trying to summarize real fast for you a one-day session.

Q. Now, was it at that meeting or another meeting where a tax problem was discussed? A. I do not think tax problems were at all discussed that day. I might say by way of answer to that, that while I try cases in the tax court of the United States, I now have in my office a young man who is an excellent tax man and I refer all such matters to him for discussion and examination.

I know that he at one time participated in a discussion of tax liability and responsibility in connection with the Desser and Garfield mortgage. I do not remember whether there was discussion in the office. There could have been, and incidentally, I am referring to David Rudow whom I mentioned yesterday.

Q. Do you recall Mr. Johnson or Mr. Robinson coming to your office on Saturday, April 29, 1961? A. I now do, yes, sir.

Q. You do? A. I might say by way of explanation in that area, Mr. Doub, that that Mr. Robinson and Congressman Johnson visited my offices in the last several months asking me for the date of this Saturday visit. I could not recall it.

He mentioned my secretary who was present at the time. I called her on the phone—a Mrs. Isabel Kicas. Isabel remembered it very well and was able to pin it down to a particular Saturday, April 29, 1961.

With that information I was able to call—

Q. In other words, you recall a Saturday but you did not recall the date? A. Well, I am able to recall it precisely now and I was trying to tell you why, sir. I then called Mrs. Rosalie Brenner, the second secretary who worked that day and, as a result of her advice, I was able to go to my records and pick out a check that I paid her for services rendered on April 29, 1961. As a matter of fact,

with that information I then discussed it in the office and there was no question in my mind about the date. It was April 29, 1961 and there was a funny incident with respect to it.

Congressman Johnson and Mr. Robinson did not have an appointment with me that day. My only appointment was with a client, a Mrs. Lilly Nelson, who was due in the office at 10:30 that morning, perhaps 11 o'clock. They walked in. They wanted to do some work. They wanted stenographic service and help.

Mrs. Nelson walked in. She is a secretary by profession as well as a housewife. They impressed her to work. She went to work. She was a very unhappy woman. In the meantime I called Rosalie and Isabel. They came in and she scooted out of there as fast as she finished what she was typing. We never discussed the matter she came to the office about. She too, remembers the date very well.

Q. So there were three girls working for Mr. Robinson and Mr. Johnson that day? A. Yes, sir.

Q. Do you know how long they were dictating to the secretaries and were in the office? A. Yes, I know that Rosalie did not leave until after six o'clock and the reason for that was, she had to finish up work. I know that Rosalie took dictation from the Congressman. She took dictation from Robinson. I know that Isabel took dictation from both. I participated very, very little because, frankly, I was not interested in the matter nor was I participating. They intended merely to use my office as a vehicle for their purposes.

Q. Did Mr. Johnson bring you into this matter? A. No. As a matter of fact, I did look at some language that was subject to discussion. I am not even sure I remained in the office steadfastly. I believe I left and returned.

But my son-in-law David Rudow, was again working that day. In speaking to Rosalie, she emphasized it because

she sent him out at five o'clock to move her automobile which was parked down in Sam Smith's parking lot.

Q. Were you close enough to the work they were doing there to know what legal instruments they were preparing? A. Yes, they seemed to be preparing a loan agreement of some sort involving, I believe, Charles County Land Company. And the reason the name sticks to me, sticks in my mind is that I had incorporated Charles County Land Company only a few days ago, a few days before at the instruction of the Congressman, Congressman Johnson.

Q. Upon his instructions did you prepare the articles of incorporation for Charles County Land Company? A. Yes, sir. Congressman Johnson called on either April 25 or April 26 of 1961.

We immediately went to work on the certificate of charter, by-laws and preliminary minutes. We used all my office staff. As a matter of fact, Isabel was one of the incorporators. Another secretary Catherine Sennett, was the second incorporator and then my second son, David Adelberg, was the third incorporator.

Q. Was that incorporated under the laws of the State of Maryland? A. Yes. I might say I named myself in the charter as the resident agent for Charles County Land Company.

Q. Can you recall whether Mr. Johnson indicated there was some urgency about the matter? A. Yes, he called and asked to give it the right-of-way and, as you see, it did get the right-of-way. As a matter of fact, it was not even delivered by mail to the State Tax Commission. We delivered it by hand and, as a matter of fact, we prepared a check and the check was not adequate, and I have the receipt with me that required me to pay an additional $2.00 on April 27.

(Vol. 26 [3053]):

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[3063] By Mr. Doub:

Q. I show you what purports to be a note from Mr. Johnson to you of June 2, 1961 and ask you if you received that? A. I did, sir.

[3064] (Mr. Doub) I offer it in evidence, Your Honor.

(The Clerk) Defendant Johnson Exhibit 47 marked in evidence.

(The Court) Any objection?

(Defendant Johnson Exhibit 47 marked in evidence.)

(Mr. Doub) It is dated June 2, 1961 to Harry Adelberg, Esq., Maryland National Bank Building, 10 Light Street, Baltimore, Maryland.

"Dear Harry:

"Pursuant to our telephone conversation, I am enclosing herewith Declaration Summons in the local bank matter.

"Personal regards,

/s/ Thomas F. Johnson."

By Mr. Doub:

Q. Now, did that relate to the summons or the suit that had been filed on the Dranow treasury note? A. Yes, but I might say to you this was not my first introduction to the matter.

Q. Yes, but I am coming to that. A. Yes.

Q. Congressman Johnson then referred to you for handling the suit that was brought by someone named [3065] Marcus, I believe. A. Jules Marcus.

Q. Who claimed to be the original owner of that treasury note for $100,000? A. Yes, sir.

Q. And did you thereafter handle that suit until it was settled? A. I did, sir.

Q. And do you know what amount was paid in settlement of his claim that it had been stolen before it had been negotiated and sold to First Continental? A. Well, I settled the case for $12,500. But let me say this to you, Mr. Doub, there was work in this matter prior to this letter and I call that to your attention for whatever it is worth.

Q. Did you have any discussions with Mr. Johnson with respect to the claim that lawyers for Mr. Marcus had asserted prior to the institution of this suit? A. Well, let me reverse the order if I may. My first introduction of the matter was when Bill Robinson came to my offices with a letter from Messrs. Kardy and Brannam, making demand upon the First Continental Savings and Loan Association. Immediately following that, I received a telephone call from Congressman Johnson in the matter.

I did not know at this time he had been active in it or for that matter, had referred it to the office. I knew immediately he had after I had spoken to Robinson.

I might say this, that because of the first introduction for Robinson, I was not clear in my own mind as to actually who had referred the matter to my office. But when I checked my file, I find that prior to the suit, I had written the Congressman about the letters and correspondence. He had replied to me. We had discussed it on the telephone.

Apparently, he had engaged, or caused someone to engage in some research in the matter. I think I got his research results. I did not use that. I mean, we read it and then probably, because of the same caution that one would exercise in practice, I put my own men to work on the question of research.

But, in any event, this was a suit that was finally referred to my offices by Congressman Johnson. It was a suit filed in Montgomery County. We filed answers and defenses

and immediately, coincidental with the filing of the answers, I attempted something that worked. We filed a petition to remove the case to the U. S. District Court. It was removed to this court and it was in this court. As a matter of fact, I believe the Court will recall that I had some conversations with him about this particular case. But, in any event, as the case progressed, I do not think I engaged in further conversation with the Congressman about it except casually and I would say that one of the conversations was that we had with him, it never came into being "before you fix a fee in this case, consult me in it—so it is worth a substantial fee if you get the result that you think you can get," or some such language.

Q. Do you recall in August, 1961 Mr. Johnson asking you to send him copies of some depositions which you had taken? A. Yes, we took depositions in the Marcus case of Jules Marcus in New York City on August 9, 1961. Some time after that I would say that we probably did not get the depositions for a week or two, but when we had received the depositions, I had received a call from Congressman Johnson telling me he would like to have them. I do not know what use he wanted to make of them but I referred them to him.

I mailed them to him or delivered them to him. I just do not remember but he got them.

Q. You testified at the outset of your testimony yesterday afternoon that Mr. Johnson referred business from time to time—legal business, to you? A. Yes, sir.

Q. Do you recall a matter which he referred to you in 1960 involving some persons named Calhoun? A. Oh, that was a tax case. Messrs. Wilgus and Calhoun were at that time engaged in the Acme Poultry business outside of Snow Hill, Maryland. They were involved with an income tax—

(Mr. Doub) I am not going to go into this.

(The Witness) All right, sir.

By Mr. Doub:

Q. I am going to ask you one question. Did you send, after the fees were paid, legal fees due, send Mr. Johnson a check dated April 3, 1961 for $1,000 as his share of the fee your office had earned? A. I did, sir.

Q. That legal matter had nothing to do with the matters involved in this case? A. No, that was one of the many matters that we may have interchanged and I might say that most of the legal matters flowed from Congressman Johnson to my office. I did not have too many matters on the Shore.

(Mr. Tydings) You mean you did not refer him many matters. He referred them to you?

(The Witness) Principally.

By Mr. Doub:

Q. Do you recall being at The Woodner Hotel on a late afternoon of October 23, 1961? A. I recall being there very well, but I do not recall too much about it. On October 23, 1961, a client and I had business in Silver Spring near Washington. We visited over there. We were engaged in a conference involving a business matter relating to the client. A day or two days before Robinson had been in my office and told me that Congressman Johnson was leaving the country on the 24th of October. So, I called him from Carl Friedman's office where we were engaged in negotiations and discussion, wishing him a good trip, and I don't know whether he was visiting Europe or going around the world but in any event, it was a trip abroad.

When I called the Congressman, he asked me if I would mind picking him up and carrying him to Baltimore. I was not driving my own car. My client, a Frederick Fisher, had his car with him. I asked the client whether he would mind and he said, no. I had to tell the Congressman I did not know when I could pick him up. It would depend entirely upon the time the conference ended.

He indicated that he would be ready at about six o'clock and I thought that was perhaps all right. We finished about five-fifteen or five-thirty, and we drove from Silver Spring—

Q. First, did you agree to meet him somewhere? A. Yes, We drove to The Woodner Hotel and the Congressman was not there. I think Robinson was there. I am not sure whether Mr. Edlin was there, but I know that Robinson was there and some other personnel connected with the Association but frankly, I was anxious to be home. I was irritated at having to wait. I sat at the table in the tavern there or cafe, and had a drink with the other men or some other men and I had to wait for the Congressman and he finally did arrive.

Q. Do you recall specifically whether Mr. Edlin and Mr. Johnson moved over to another table for a short while? A. It is all very vague. I was not paying any attention to them. I know that they sat at another table for awhile. What they were doing, I do not know, and frankly, I was asked whether I remembered much about it. I just do not. I got a vague impression which may or may not be accurate that the Congressman was signing something over there. More than that, I cannot tell you. I do not even know what he was signing. It is all in the intangible.

Q. And Mr. Johnson then did drive back with you and your client to Baltimore? A. He drove back and we brought him to his home near Johns Hopkins University. I forget the address, Canterbury Road.

Q. I show you Defendant Johnson exhibit No. 1 marked for identification and ask you if you received that check from Mr. Johnson? A. I did.

Q. All right.

(Mr. Doub) I offer it in evidence, Your Honor.

(Mr. Tydings) Aren't you going to ask him what for?

(Mr. Doub) Before I offer it?

(Mr. Tydings) I am going to object to your offering it until you have the witness describe what it is for. It is not relevant until we know what it is for. That is, until the jury knows what it is for.

(Mr. Doub) This check has now been identified as having been received, Your Honor. It was marked for identification before and I now offer it in evidence.

(The Court) Mr. Tydings has objected on the ground of relevancy and materiality.

(Mr. Tydings) I have not objected all morning to the way he has been phrasing his questions because we want to get to the facts out even though, in some areas, I thought I could well have objected. I do insist that the rules of evidence be followed now and he identify it and establish its relevancy before it is received in evidence. It is very simple.

(Mr. Doub) Your Honor, the check shows on its face the relevancy. It recites it is a "Fee-First Continental."

(The Court) Let me see it.

(Pause)

Mr. Tydings will have an opportunity to ask about it on cross examination.

(Mr. Doub) Your Honor, I intend to bring it out.

By Mr. Doub:

Q. What was that check for? A. That was intended to be a payment on account of services that we have rendered. At least my office has rendered for First Continental through Congressman Johnson's office.

I might say to you, Mr. Doub, that this is not the first check that we received in that area. We first received two checks. One from the First Continental, both of them—well, two checks on, I think April 17, 1961, each in the amount of $350 and those checks were received directly from the savings and loan associations.

I wrote Congressman Johnson when I got that check, those two checks, and asked him for instructions because they were sent to me without any bill or any request for payment and then as work progressed, I got this $500 check, oh, I think that check should be dated—I received it about July 6. I do not know what it is dated.

(The Clerk) It is dated July 5.

(The Witness) I received it July 6, 1961. Then I got another check, if you are interested.

(Mr. Doub) Well, I am coming to that. I again offer it in evidence.

(The Court) Yes.

(The Clerk) Defendant Johnson exhibit 1 previously marked for identification, now marked in evidence.

(Defendant Johnson exhibit No. 1 received in evidence.)

By Mr. Doub:

Q. It is a check to Harry Adelberg, attorney for $500 date July 5, 1961. It bears the signature of Thomas Johnson and under it "Special Account." On the lefthand side "Fee—First Continental."

Now, I show you defendant Johnson exhibit 2 for identification and ask you what this is? A. You asked me to tell what it was?

Q. Did you receive it? A. Yes.

Q. What was it for? A. This was a check that is dated August 7, and I received it on August 9, 1961, also for services rendered by my office through the Congressmen for the Associations. I might say to you, sir, that during that period of time while we were working, I had written the Congressman a couple of time, discussing the question of fees and what to do about billing, and at the same time I also discussed the question of fees with Robinson. Between the July 6 check, dated July 5, I received it on July 6—between the July 6 check and the August 9 check. I

had occasion to mention to Robinson that I had received the $500 and we discussed it and he told me then that it was his position that he was paying Congressman Johnson for the services rendered by my offices. That is before I received the second check.

I discussed that with the Congressman and I think that is entitled to some explanation. The Congressman and I have always operated on a very informal basis. I never question any remittance that he made to me, and he never questioned any remittance I made to him. If I made a remittance to him, I did not give him a statement of account. I did not indicate to him the fees collected. I sent him what I thought was a fair distribution to him in the case, in a given case, considering his participation or lack of participation and considering the reference.

Q. Did Mr. Johnson seem to handle—

(The Court) I think you had better let him finish.

I thought he was in the middle of an answer.

(The Witness) It was with that view in mind that when I got these checks, I discussed them with the Congressman.

Now, as a matter of fact, you referred yesterday, for instance, to a letter of April 17. In that letter, I acknowledged those two checks that I received from the building association and I discussed that matter and also discussed the Marcus case. I discussed the question of fees. Again at a later time, in a later letter I wrote the Congressman and told him that perhaps we ought to have some discussion of the fees on some basis but this was entirely up to him. These were his matters as far as I was concerned, and he had to tell me what he felt was proper or reasonable.

(Mr. Doub) I offer Johnson exhibit 2 in evidence, Your Honor.

(The Clerk) Defendant Johnson exhibit 2 previously marked for identification now marked in evidence.

(Defendant Johnson exhibit 2 marked in evidence.)

(Mr. Doub) Members of the jury, this is a check dated August 7, 1961, payable to Mr. Harry Adelberg, Attorney, in the amount of $500 and it is signed by Thomas F. Johnson, Special Account, No. 1, and on the left hand side it is written "Legal."

By Mr. Doub:

Q. Is that check in Mr. Johnson's handwriting? A. Yes, sir.

[3076] By Mr. Doub:

* * * * * *

Q. When did you first hear that Mr. Johnson had made a speech in Congress regarding savings and loan associations? A. I knew nothing at all about the speech until sometime in October of 1961 or perhaps even November. It was the latter part of October and I think it was shortly after the Congressman had left the country. It may have been November or the early part of November.

[3077] In any event, I think I read something about it in the Washington Post or I got some reference to it from the Washington Post.

Q. That was something critical? A. Yes. And I then had occasion to call the Congressman's office in his absence to speak to Mr. Buarque. I asked him the—

(Mr. Tydings) Your Honor, I do not want to interrupt but we have had so much hearsay. I realize Your Honor's position, the fact that you have conversations admissible but it is not admissible to prove the truth.

(The Court) I do not think it is material relative to something that happened about the newspapers.

(Mr. Genn) I do not object to comments by the United States Attorney as to things he does not object to. We frequently have done the same thing, when I objected to the hearsay matters he brought in.

There should be no medals awarded to anyone for not objecting. If there are any objections made, that should be done without comment.

(The Court) That is right. Mr. Tydings, if you object to this, I sustain the objection.

(Mr. Tydings) I object.

(The Court) Unless the relevancy, materiality [3078] and competency is shown.

(Mr. Doub) Your Honor, may I say this as to that: As I understood the Government's position on cross examination of Mr. Buarque, the question was as to the preparation of this speech, and in effect, an attack on what he had to say, that he had prepared that speech and no body else had done so, and since they have made that attack, it seems to me that I can now ask this witness what Mr. Buarque told him as early as October.

(The Court) Of course, that is not admissible. Self-serving statements by Mr. Buarque are not admissible here. You put Mr. Buarque on the stand. He was subject to cross examination. The jury will either believe him or not believe him.

Other statements that Mr. Buarque made to an associate are not admissible.

(Mr. Doub) Would it not be significant, though, if he made the same statements, Your Honor, as long ago as October, 1961?

(Mr. Tydings) You mean after he read the critical newspaper articles in the Post?

(Mr. Doub) Yes.

(Mr. Tydings) That would just emphasize the fact it is a self-serving declaration after you are under attack.

[3080] (Open court.)

(The Court) I think it is very doubtful but the objection goes to weight rather than admissibility.

(Mr. Tydings) If he is going to examine him about a newspaper article, Your Honor, isn't the article itself the best evidence?

(The Court) If Mr. Doub examines him about that, he may open up a good many avenues which would otherwise be closed to you but that is his choice.

(Mr. Genn) If the Court please, I am going to object as to this particular line if we are going to get into newspaper articles about this matter.

[3081] (Mr. Doub) I am not going to go into newspaper articles.

(The Court) I do not see how Mr. Doub can avoid that if he is asking the witness to tell about his discussion with another witness about a particular newspaper article. If you object, we will take a poll of the defendants. I was going to overrule the government's objection. Do the other defendants object to the question Mr. Doub is asking?

(Mr. Williams) I would just like to be left out of this, Your Honor.

(The Court) Do you object to it?

(Mr. Genn) I do not think—

(The Court) You have got to object or not object. Yes or no.

(Mr. Genn) Your Honor, I have stated I do object and I do think the conclusions and opinions of newspaper reporters certainly should not be an issue in this case and that is what is involved in newspaper articles.

(Mr. Doub) This is not involved.

(The Court) Well, are you going to say anything, Mr. Robinson?

(Mr. Robinson) No. Your Honor, I neglected to come to the Bench and I am afraid I do not know exactly what [3082] is going on.

(The Court) I do not think Mr. Genn's objection is a good one at this time, whatever it may be as to something which may come up in the future. I overrule the objection.

(Mr. Doub) All right.

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[Tr. 3159-3162]:

THOMAS F. JOHNSON

DIRECT EXAMINATION

By Mr. Doub:

Q. Mr. Johnson, where do you live? A. Berlin, Worcester County, Maryland.

Q. Where were you born? A. Snow Hill, Eastern Shore of Maryland.

Q. And who was your father? A. My father was the late Judge William F. Johnson.

Q. He died when? A. He died in 1961 at the age of 98.

Q. Mrs. Johnson, your mother is still living? A. I am happy to say that she is and she is in court today. She will be 90 her next birthday.

Q. And I believe you had a brother who was also a Judge? A. I did have a brother named Edwin H. Johnson who served nine years as Circuit Court Judge. He passed away in 1951.

Q. You have a sister? A. I have a sister who is in court who is Mrs. George O. Eaton, wife of Dr. George O. Eaton, the Orthopedic surgeon.

Q. You are married? A. I am married.

Q. How many children do you have? A. Four children. I had three by a marriage some years ago. I have one step-daughter, making four children.

Q. How long have you been married to your present wife? A. I think 12, 13, 14, maybe 15 years.

Q. You are as vague as I am? A. Yes.

Q. Now, Mr. Johnson, where were you educated? A. I was in various schools, St. Johns College, Staunton Military Academy first, the University of Virginia and the University of Maryland.

Q. And you studied law where? A. At the University of Virginia and I had one year also at the University of Maryland.

Q. Since graduating from law school and being admitted to the Maryland Bar, where did you practice law? A. In Snow Hill, in Berlin which is on the Eastern Shore and for many years I have had a working arrangement in Baltimore.

Q. What was the first governmental position you held? A. As a state official I was elected in 1934 as State's Attorney for Worcester County.

Q. How long were you States Attorney? A. I served for four years until 1939.

Q. When was the first time you became the Democratic nominee for Congress? A. Well, following State's attorney in 1939, I was elected to the State Senate and I served for 12 years until 1951 in the State Senate.

In 1950 my first contact as a Democratic nominee for Congress.

And I might say, unsuccessful because that was the year that Governor Lane and Senator Tydings and a few of us went down to defeat.

Q. Now, those three were the only persons running in that election on the Eastern Shore, you and the other two? A. There were other candidates but I do not recall the candidates now.

Q. When were you first elected to Congress? A. I was elected in 1958. November of 1958 and took my seat in January of 1959.

Q. And you ran again and were re-elected in 1960? A. I was re-elected in 1960.

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[Tr. 3163]:

Q. Then you ran again in 1962 and you were defeated? A. I was defeated by a very, what I considered, a narrow margin. I think I received approximately 30,000 votes and my opponent 33,000. And that defeat came just three weeks after the indictment in this case.

Q. Now, I want you to turn to your record in the Congress briefly. What were the two most important committees which you served on? A. In my first session I served on the Merchant Marine and Fisheries Committee of which, incidentally, my Colleague Congressman Boykin was also a member.

My second session I was selected for the Foreign Affairs Committee and the second session I served on both of the important committees, the Merchant Marine and Fisheries and the Foreign Affairs Committee.

Q. You were a co-sponsor of the Peace Corps Bill? A. I think I was co-sponsor of many but the Peace Corps was one of the bills that I co-sponsored.

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[Tr. 3164-3166]:

Q. What was your roll call record in the Congress? A. I think I had a very excellent one throughout the tenure in Congress. I would say in the upper ten per cent. That means a very high record of attendance.

Q. Did you practice law when you were in the State Senate of Maryland throughout that period? A. I did.

Q. And did you practice law during the years you were in Congress? A. I continued to do so as many others I think probably sitting in Congress do who are lawyers.

Q. When you were practicing law in Snow Hill and Berlin, did you practice under the firm name of Johnson

& Johnson? A. I did, with the firm my father originated in, I think, 1883 or 1885. And I continued under that firm but approximately 1939 I moved near Berlin and opened an office in Berlin and most of my time following 1939 was in the Berlin Office and not Snow Hill.

Q. Did you continue the firm name of Johnson & Johnson, however, in connection with the Snow Hill office? A. I did.

Q. And who were the partners, who have been the partners in that firm? A. Well, for the last year I was the sole and only partner. In the inception why, it was William F. Johnson, my father and my brother Edwin H. Johnson; later there were the three, including myself, who were partners. Following my brother's death, after he had been on the bench, and inactivity of my father, I was the only remaining member of the firm.

Q. You have been the sole surviving member since when? A. Oh, I would say possibly the last five, six, seven, maybe ten years.

Q. Now, why did you continue that firm name when you were the only partner left? A. Well, it was a great deal of sentimental reasoning, because father, say, did not pass away until the last of 1961 and he was very attached to his old firm, and I remained more for the sentimental reason than anything else, and because of him.

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[Tr. 3184-3204]:

Q. Mr. Johnson, when was it that you first met Mr. Edlin and Mr. Robinson? A. That was in the early months of 1960.

Q. And in what connection did you meet them? A. Starting in 1938 I was interested in a bridge construction known as the Assateague Bridge. That was to connect the mainland with Assateague Island.

There had been a group of land owners as well as citizens in Worcester County who were interested in a bridge.

They were having trouble to find financing. In early 1960 Mr. Marshall Diggs or his associate introduced me to Mr. Edlin, as underwriter for certain lending institutions.

Q. He was introduced to you as an underwriter for certain financial institutions? A. The bridge group headed by Mr. Marshall Diggs, and there were several very prominent citizens who constituted that bridge group, and they met with me in Washington, saying that a Mr. Edlin had discussed the matter with them and they would bring Mr Edlin in, and they identified him as an underwriter for several lending institutions.

Q. Now, at that time was the Assateague Island Bridge group interested in private financing to finance the construction of the bridge? A. It was private financing. At that time the State had not considered the feasibility of using public funds for the bridge. It was entirely private. And as a result we had several conferences with Mr. Edlin and with Mr. Robinson.

Q. And the subject was a loan to the bridge company? A. Yes, I recall the first discussion was for a $1,700,000 loan. That was not only for the bridge, but tying in with the bridge was for sewer and water and some roads on the Island, and as collateral they wanted 500 mortgages from property owners. Later that was revised.

We had several conferences and the last suggestion was that there would be 4,000 mortgages given to secure the loan, but those negotiations continued until, I would say, August of 1960.

Q. Now, this was the loan sought by the Assateague Bridge Corporation that Mr. Diggs was President of? A. I was one of the counsel for the Assateague Bridge Company. I had been approached for legislation after I had served my term in the Senate. I had made a search and told them there was no need for a legislative act; that the Public Service Commission had jurisdiction, so I was there as attorney.

Q. I don't want to go into that. A. All right.

Q. How many meetings would you say that you attended where Mr. Robinson and Mr. Edlin were present from the time you met them in early 1960 to the time when these negotiations for a loan were concluded?

(The Court) You mean about the bridge matter or about other matters?

(Mr. Doub) We are talking about this matter right now, Your Honor.

(The Witness) It is not clear, as the Judge says. You mean about the bridge matter?

By Mr. Doub:

Q. The bridge matter. A. I would say that I had perhaps three meetings with Mr. Edlin and possibly four or five with Mr. Robinson.

Q. And when, exactly, were these negotiations for the bridge loan terminated? A. I put August. It could have been later, but during the fall there became a public interest, and the Governor intimated that he would put in his budget sufficient funds for a public bridge, and following that—

Q. I don't want to get into that. Let me ask you a leading question, which Mr. Tydings may object to.

As a matter of fact, didn't a savings and loan association with which Mr. Edlin was connected make a written proposal for a loan, but the terms were so stringent the group turned then down, and that was the end? A. Well, in April I received a copy of a letter to Mr. Diggs setting forth what the terms would be as to a loan, and I think that was revised so we had possibly two or three proposals. But as you state, they were rather severe terms because of the 4,000 mortgages.

Q. Now, Mr. Johnson, prior to June 20th, do you recall any conversations you had with Mr. Robinson about Mr

Robinson's interest in politics? A. Yes. I think Mr. Robinson visited the property and I had occasion to be with him, as I state, possibly five or six times, and he told me that he had been interested in politics in Florida, and I think he had taken some part in political campaigns in Florida, and he was interested in my campaign. He felt that I should be returned.

Q. That is, you were going to run for re-election that year? A. In 1960 I had my former opponent Congressman Miller who opposed me.

Q. Now, I show you a check dated June 20, 1960, in the amount of $500 payable to your order, signed by W. L. Robinson, Government's Exhibit No. 69, and ask you if you received that check, and I will call on Mr. Tydings to produce the original letter from Mr. Robinson to enclose that check, which the Government did not offer in evidence. A. I mean the letter from Mr. Robinson to me.

(Mr. Doub) That is right.

(Mr. Tydings) Your Honor, any letters or anything which the Congressman turned over to us or anybody else, all Mr. Doub has to do is ask us in advance and we will give them to him, and we wont have this unnecessary delay. I don't think it is quite proper to make a big ceremony in front of the jury, when he can do it in the proper way and ask beforehand.

(Mr. Doub) Mr. Tydings, you have a monopoly on what is said before the jury.

(Mr. Marion) Mr. Doub, you also know that we could not call either the receiver or the sender of that letter to the stand and introduce it.

(The Court) It is a fact the Government did not put it in because they couldn't have gotten it in, Mr. Doub, over objection.

(Mr. Doub) Your Honor, we wouldn't have objected to it. We wanted it in.

(The Court) All right.

By Mr. Doub:

Q. Now, I show you— A. I am holding this check. I have answered the question. Shall I give it back to you?

Q. Now, I show you a letter dated June 20, 1960, from Mr. Robinson to you and ask you if you received that letter? A. I did.

Q. And did that letter enclose this check, dated June 20, 1960, for $500? A. I did.

(Mr. Doub) I offer the letter, Your Honor.

(The Clerk) Defendant Johnson's Exhibit No. 49 marked in evidence.

(Defendant Johnson's Exhibit No. 49 was received in evidence.)

(Mr. Doub) This is on the letterhead of W. L. Robinson, Attorney at Law, Miami, Florida, June 20, 1960, addressed to Thomas F. Johnson:

"Dear Congressman Johnson:

"The enclosure is with my best wishes for your success in your present campaign for re-election, and I look forward to seeing you on my next visit to Washington. My present plans are such that I expect to be in Washington Wednesday and Thursday of this week.

"Thanking you for your past cooperation, I am

"Very truly yours,

"W. L. Robinson."

By Mr. Doub:

Q. Now, Government's Exhibit 69, which you have identified as the enclosure referred to in that letter from Mr. Robinson to you, a check for $500, contains an endorsement. I would like you to read that to the jury. A. It is an endorsement on the back of the check: "Pay to the order of

Russell O. Hickman, Luncheon Treasurer," signed Thomas F. Johnson. That is in my handwriting, and under that "Deposit to the account of Russell O. Hickman, Luncheon Treasurer," which I can identify as Mr. Hickman's handwriting.

Q. Now, did you have any discussion about this campaign contribution with Mr. Robinson when he came to Washington, and in that connection I call your attention to the fact of his covering letter which said that he was going to be in Washington shortly A. I did. I think I addressed him as Mr. Robinson, as the letter indicates. We were not at that time on the first name speaking. He called me Congressman.

He arrived, and I thanked him for the contribution. I told him that I had not named a campaign treasurer; that we were having a luncheon, Congressional luncheon in Baltimore, on July 19, a fund raising. Would it be agreeable to have the check used for the purpose of tickets at that luncheon? And the treasurer of that luncheon was Mr. Hickman and the chairman was Mr. James Campbell, and he stated that it would be agreeable.

Q. Now, you stated that you endorsed the check over to Mr. Hickman, the treasurer. Do you know of your own knowledge that the proceeds of that check were deposited by Mr. Hickman in his political account? A. I do.

(Mr. Marion) I don't believe there is evidence to that effect, Mr. Doub.

(The Witness) I do have personal knowledge because I asked him after the charge against me that I had received a $500—I won't say what, bribe or what.

(Mr. Doub) We can't go into that.

(The Court) Mr. Hickman can go on the stand and testify he deposited it.

(The Witness) I do have personal knowledge, too.

By Mr. Doub:

Q. Let me ask you this: Did all or any part of that check come to you? A. Mr. Doub, I received not one penny of that check. It went for my campaign along with the campaign of John F. Kennedy and Lyndon Johnson, and that is shown by the report filed in Snow Hill.

Q. Now, Mr. Johnson, I show you Defendant Johnson's Exhibit No. 11, constituting the Congressional Record for Thursday, June 30, 1960, which contains a speech on page 14,184, and ask you if you delivered that speech or caused it to be inserted in the Congressional Record, which would have the same effect? A. Yes, sir, that is the speech that was either delivered or submitted to the Clerk.

Q. By you? A. By me on June 30, 1960, after the close of all other business by the House.

Q. Now, the first sentence of this speech states:

> "Mr. Speaker, on the 27th of May there appeared in the Financial Section of the Washington Star an article by one Donald B. Hadley, with the shocking black headlines 'Savings and Loans Urged to Warn Public of Maryland Phonies."

Your speech then proceeds to criticize and answer that article in the Star.

Now, when did you first see the article in the Star published May 27, 1960? A. Mr. Doub, I don't know when I first saw it, the date. I know Mr. Buarque called the article to my attention, but when I do not know.

Q. In other words, it had been some time after the 27th then? A. I presume so, because I couldn't guess what date that I first knew.

Q. Now, where do you recall meeting Mr. Heflin? A. After Mr. Heflin testified, I recalled that I had met him once at the Congressional Hotel.

Q. Is that at a luncheon? A. That was at a luncheon

that Marshall Diggs wanted to discuss the bridge matter, and I did not know Mr. Heflin was there until he testified, and I would accept his word he was there.

Q. Now, who were present at that—who else was present at that lunch? A. I would say, I am very hazy on who was there, but I would accept the testimony that he was there, Mr. Edlin— I think Mr. Rains testified he was there, and, Mr. Doub, I don't know who else.

Q. In any event, did you meet Mr. Heflin there? A. I could have because I had no impression because we are meeting constantly every day delegations, and it made no impression.

Q. Now, do you recall thereafter in June 1960, Mr. Heflin coming to your office to speak to you? A. I do remember his being in my office.

Q. And tell the jury of your conversation with him, Mr. Johnson? A. I don't know the date that Mr. Heflin came in the office. He had a copy of the Washington Star. The same article that had been shown to me. He stated that he thought it was very unjust. It was unfair reporting.

I asked him what his connection was with any savings and loan. He told me he was P.R. man for the Institute of the savings and loan independents.

Q. What do you mean by "P.R."? A. Public relations man.

I asked him about his organization. He told me that he was located on Connecticut Avenue. They had an office. I asked him whether he represented any Maryland institutions. He said yes. I asked him how many institutions. I don't recall, but I think he said two, three or four, but he continued to say they had a drive on. They expected to have a large number of members. He was indignant over the speech and thought that something should be done about it.

I told him that matters of that sort was left to my ad-

ministrative assistant. He then was asked to see Mr. Buarque. In fact, I took him out to the other office, introduced him to Mr. Buarque and told him to discuss the matter with him. That is the last time that I saw Mr. Heflin until he was in court, and I wouldn't have known him.

Q. Was Mr. Robinson with Mr. Heflin? A. He could have been, I don't recall. He could have been with him, but, as I say, it is an instance that he could have been to the office only a few minutes, because a Congressional office, particularly ours, there was not opportunity but for very short conferences. We have a tremendous demand of constituents, starting in the morning all day, and conferences are short.

Q. Now, thereafter did you have any conversations with Mr. Buarque about making a speech replying to the article in the Star? A. I do recall following—whether it was that day or days following, that Mr. Buarque said that he had talked with Mr. Heflin; that Buarque thought that it should be answered; and that he would prepare some remarks for me for the floor.

Q. Now, have you any information that Mr. Buarque saw any copies of any speeches that might have been sent to him by anybody else? A. Mr. Doub, he didn't show me any. I had no knowledge of any, and to me the whole incident was completely forgotten until this episode.

Q. Now, did there come a time when he submitted to you a speech which he had drafted or said he drafted? A. He came into my office and had a prepared statement. I don't recall now when that was, but it must have been before June 30th.

Q. It had to be? A. It had to be before June 30th. We had a discussion, and I recall that Mr. Buarque felt that it would be a good political move. I had the election. We were thinking about 1964, and thought we could get some publicity from it. As it turned out, there wasn't much response to the speech.

Q. There wasn't any publicity either, was there? A. No. We expected some, but nothing came from it, not in the right direction anyway.

Q. Mr. Johnson, did Mr. Edlin ever ask you to make that speech? A. Absolutely not.

Q. Did Mr. Robinson ask you to make that speech? A. Absolutely not.

Q. Were you promised anything by anyone if you would make the speech? A. Absolutely not.

Q. Did you know of any advantages that might accrue to you aside from the political ones you mentioned? A. Absolutely none.

Q. Did Mr. Edlin or Mr. Robinson hold out to you any inducements if you would make that speech? A. None. I don't think I even saw Mr. Edlin during that period of time, or Mr. Robinson, except for the occasion when he came in about the bridge matter, and I think that was only about a few minutes conversation.

Q. When you discussed with Mr. Robinson his campaign contribution to you did he refer to this speech at all A. Mr. Robinson never mentioned this speech or any reference to it, and as far as any compensation, I want it distinctly understood there was no promise and there was nothing received, and I resent any inference of it, and Mr. Tydings knew or I told him before the indictment exactly the truth of this.

(The Court) Do you have any more questions, Mr. Doub?

(Mr. Doub) Would Your Honor indulge me just a moment?

(The Court) All right.

By Mr. Doub:

Q. You have testified that you did not have any meetings with Mr. Edlin or Mr. Robinson other than the fact

that they were at that luncheon on the Assateague Bridge matter with Marshall Diggs and perhaps Mr. Heflin. Do you recall what month that luncheon was in? A. I don't recall. Mr. Heflin, I think, testified he thought it was April of 1960. It may have been May, but I do not recall.

I might add, at that time one savings association did not mean any more to me than another.

Q. At the time you made that speech, did you have any connection of any kind with any savings and loan association? A. None whatsoever. I was not a depositor, shareholder or represented or had any connection, and I don't even know that I knew the name First Continental, and I didn't know First Colony, but reviewing my files I notice in April their name was mentioned in the proposal for the loan.

Q. The Assateague Bridge loan? A. That had slipped my mind, but I had no knowledge of them.

Q. I show you, Mr. Johnson, Government's Exhibit No. 1, being a check of First Continental, dated July 5, 1960, in the amount of $168,91, payable to the order of the Congressional Record Clerk. Will you tell the jury when you first saw that check? A. I presume it was somewheres on or about July 5, 1960.

Q. Now, it is undisputed that that was a check for the cost of 10,000 reprints? A. That is what it so states.

Q. When did you first learn of any order by Mr. Heflin or his Institute for reprints? A. I would not say that Mr. Buarque did not mention to me that there was requests for reprints, but I have no recollection of anything pertaining to reprints of the speech of June 30th until the check was brought to me for endorsement when I asked what it was for.

Q. And that was brought to you by whom? A. In the office there is a Mrs. Kiernan who looks after all reprints, and I assume she is the one who brought it to me for en-

dorsement over to the printers, because the speeches are not printed at Government expense.

Q. Does that document bear your endorsement over to the Government Printer? A. Yes, under the rules of the House, a check has to pass through a Congressman.

Q. That is your endorsement? A. That is my endorsement over to the Public Printer.

Q. Now, I show you Government's Exhibit No. 3, being a check of First Continental, payable to you, in the amount of $161.39, dated August 13, 1960, which would have been about six weeks after the speech, and ask you what that check was for, or when you first saw it? A. That was in the regular course of the office, during August, on or about August 13th, for reprints, and that was endorsed over to the Public Printer by me.

Q. That is your endorsement? A. My endorsement is on it.

Q. Just going back to that speech, I forgot to ask you this, Mr. Johnson, when Mr. Buarque presented his final draft of the speech to you, did you make any changes in it? A. I think possibly a few. I am inclined to have rather conservative speeches, and I am sure I did strike some parts of the speech.

Q. Before you actually delivered it? A. Yes.

Q. Now, did anyone discuss with you orders for reprints by Mr. Heflin or his Institute? A. No one whatsoever, unless, as I say, Mr. Buarque had mentioned it, which I do not recall. He could have said that they wanted a request for reprints, but it is so routine that I just don't recall.

Q. In any event the orders were not directed to you. In other words, Mr. Heflin did not call you about them? A. Mr. Heflin never talked to me about any reprints.

Q. Did you ever see Mr. Heflin after he came to your office in June 1960, when he expressed the hope that you

would answer this blast? A. I think I testified that from that occasion until he was in the court the other day was the first time that I had seen him since that date.

Q. Did you have any knowledge of the distribution that was made of the reprints for your speech? A. I knew nothing. I did not know they were distributed. If they were, I was not consulted but usually Congressmen or Senators hope they will be distributed because that is the way of publicizing their speeches but I was not consulted. No one talked to me.

Q. When you did hear that this large number of reprints had been ordered, were you pleased or displeased? A. If I had heard it following the speech, I would have been pleased, but I did not hear anything about it until this case started and I am not so pleased particularly about any of it.

Q. You knew about it when you received—when you endorsed those checks over to the public printer? A. Yes, but it is routine and I did not know at that time very much about it.

Q. Now, Government counsel has introduced in evidence the order of your office addressed to the Public Printer for reprints of this speech which is signed by Mrs. Kiernan whom you testified was a secretary in your office.

Did you or Mrs. Kiernan personally order those reprints from the Government Printing Office? A. Mr. Doub, I did not but the responsibility of the office was mine. Mrs. Kiernan was given the authority when she first assumed her work with me four years before, now four years before, that she was in charge of reprints, and according to the evidence there, she is the one who signed for the reprints.

Q. Do you know anything about the caption that was put on the speech in the reprints? Were you consulted as to that? A. I know nothing about it. If Mr. Buarque mentioned it to me, I do not recall. I have no information or knowledge of it whatsoever.

Q. Do you remember, Mr. Johnson, whether some reprints of this speech were kept in your office? A. They may have been kept in the file but I do not know where the public could have seen them, or else I would have seen the reprints. Because I did not see a reprint until I think this matter came at issue. Yet I am told they were in the office.

Q. Now, in the outer office where visitors came and constituents came, did you maintain a table on which was printed material for such visitors? A. Oh, yes, I think every Congressional office has—we have farm books and we have all types of printing matter there that we feel may be of help to constituents.

Q. Do you recall whether any reprints of this speech were kept there? A. Absolutely not and I know that Mr. Buarque would not have because he is very careful in running the office, and I would know what he kept out and certainly I would have seen it.

Q. You would have seen them if it were there? A. Yes.

Q. Did you ever see any marked copies of a reprint of your speech where any material or sentences were underscored or underlined? A. The first time I ever heard of a marked copy or have seen one was in this court the other day.

Q. Do you recall a meeting with Senator John Clarence North of Easton about a week after you made the speech? A. I think it was a little more than a week. It was during July of 1960, I believe Senator North came to my office and with him was a Mr. deFord, and the other gentleman was Gotschalk. They were representatives of the Maryland Savings and Loan League or the Federal representatives.

Senator North stated they were there in reference to this speech and wanted to know whether I intended to have any further remarks on the floor of the House.

I told Senator North that I had no interest whatsoever

in savings and loans. That I had made the speech which I felt was an impartial, fair speech in defense of hundreds of institutions in Maryland that had enjoyed a good reputation. They should not have been slandered as "phonies," those savings and loans; having made that speech I had no idea of continuing further.

The matter was closed.

One institution meant no more to me than another. They thanked me and said they were happy to hear that I had no further interest and after a few pleasantries, they walked out.

(Mr. Doub) Your Honor—

(Mr. Tydings) Mr. Doub, would you identify who Mr. North is?

(The Witness) That is John Clarence North, State Senator for Talbot County.

(Mr. Tydings) On the Eastern Shore.

(The Witness) Yes. A very able and pleasant person.

* * * * * *

[TR.3256-3258]

Q. Mr. Johnson, in January, 1961, did you have a discussion with Mr. Edlin and Mr. Robinson or with one of them with respect to a new fee arrangement? A. I did.

Q. And will you tell the jury what was agreed? A. Well, the meeting was early in January of 1961, and they asked that they confer with me in respect to a new matter dealing with the Dranow case which has been spoken of before.

Q. I do not want to get into that. I want to stay for a moment on this. What was the new fee arrangement? A. At the conference they stated that they agreed on a monthly retainer of $800 a month.

Q. When was the first meeting with respect to Dranow treasury note in the amount of $100,000 in January of

1961? A. I do not recall but it was the very first part of January, 1961.

Q. And do you recall specifically any particular meetings and who were present about it? A. Mr. Robinson had spoken to me, also Mr. Edlin. They gave me some information in respect to the Dranow matter. I told them that I desired further information. It was suggested that a Mr. Goldman inFlorida may supply that and he was requested to come to Washington to give that information to me.

Q. Do you recall a meeting in your office with Mr. Edlin and Mr. Robinson and Mr. Goldman when they gave you the facts with respect to the matter? A. I do.

Q. Did you dictate a memorandum in their presence from the facts which they gave you at that time? A. I did.

Q. Do you have it there? A. The memorandum bears no date but it was at the meeting at the office.

Q. From what file did that come? A. I have it marked "The $100,000 note."

Q. Would you like to tell the jury who was present when you dictated this memorandum? A. To the best of my knowledge, it was Mr. Edlin, Mr. Robinson, Mr. Goldman, and I think they were the only ones.

Q. All right.

(Vol. 27 [3261]) By Mr. Doub:

Q. Now, Mr. Johnson, were you asked to make a trip to New York with respect to the legal problems involved in the claim of a Mr. Marcus for this treasury note or its proceeds? A. Yes.

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[Tr. 3261-3267]

Q. Who asked you to make the trip? A. I do not recall whether Mr. Robinson or Mr. Edlin. I do not recall which —or both.

Q. You did go to New York and you had a meeting with whom? A. With Mr. Arthur Spielberg, an attorney.

Q. And who was present at that meeting? A. Mr. Spielberg, Mr. Edlin and Mr. Robinson and myself.

Q. And what was discussed there? A. It had come to the attention of the First [3262] Continental Savings and Loan that a Mr. Marcus of New York had made claim to the proceeds of a $100,000 note, a note which had been discounted on a Bethesda Bank in Maryland.

In view of the possible claim against First Continental, I was asked to discuss with Mr. Spielberg the question first of jurisdiction, venue, and then the case, whether or not the case would be likely to be disposed of in the State of New York since the note has allegedly been stolen in New York.

Q. Didn't you mean that you were interested in what law would apply, whether it was the New York Law or Maryland Law or Florida law?

(The Court) He said he was discussing jurisdiction. He may have also discussed the other.

(The Witness) Yes, we discussed the question of the declaratory judgment as to the application of the law. The Negotiable Instrument Act of New York.

I wanted to get Mr. Spielberg—to get from him exactly what their Act contained as to the negotiable instruments, passing of title to a note of this nature.

We had a very lengthy discussion in New York at the Waldorf Hotel.

By Mr. Doub:

Q. Now, Mr. Spielberg testified it was agreed that, if there was litigation in New York, he would handle it, and if there was litigation in Maryland, you would handle it. Do you have the same recollection? A. Yes, we did not know whether first, the suit would be brought; secondly, if there

was a document suit, whether it would be in Maryland or New York and I was to handle it if in Maryland.

Q. And later suit was brought in Maryland? A. It was brought.

Q. And you referred it to Mr. Adelberg for handling? A. Finally, after some months.

Q. And you did not handle it, yourself? A. I did not handle the final settlement which was settled for $12,500.

Q. That is the claim of the alleged owner? A. Of $100,000.

Q. Now, I show you Johnson exhibit 30, being a letter from Mr. Spielberg dated January 31, 1961; in the first sentence he says, "in accordance with the conversation which I had with you last Friday, a review of the authorities was made" and then he discusses the law. Is he referring to the meeting which you have just described when he refers to the "conversation with you last Friday"? A. That is true.

The meeting at the Waldorf Hotel which was on January 27, 1961.

Q. And did you receive this letter? A. I did, together with enclosure.

Q. And what was the enclosure? A. The enclosure was a two-page memorandum setting forth the New York Negotiable Instruments Act.

Those portions or sections that dealt specifically with our problem.

Q. And there are also references to New York Legal decisions? A. Yes, and Mr. Spielberg was rather positive that the so-called "raincoat" case would be applicable to the case at issue. We discussed that at some length, and he later sent to me the letter with the memorandum.

Q. Did you have a meeting on the following day in New

York on any other subject? A. I did but I did more work on this Dranow matter, too.

Q. Tell the jury what you are referring to? A. Well, following back to Maryland, the question was whether or not the suit was likely to be docketed in Maryland.

I did have an opportunity to review our Negotiable Instrument Act and I recall I did some research, I believe, under Trover, and finally, in March or April, Mr. Adelberg joined in the case and we made a very extensive legal research. That research, for the most part, however, Mr. Adelberg did. Mine was rather superficial.

Q. Now, Mr. Johnson, the day after your meeting with Mr. Spielberg in New York, what did you do? A. I was asked by Mr. Robinson to attend a meeting, a director's meeting of the Nationwide Savings and Loan Association.

Q. Is that the association that you referred to on Thursday when you were talking about the various attempts that you had made to locate a savings and loan association in Worcester County. You mentioned a Nationwide. A. I did. As I say, I was not a stockholder or director of Nationwide but whenever I had the opportunity, I always try to get something for Maryland and I asked them to locate one of their offices in my district in Worcester County.

Q. I show you what purports to be an original letter from M. A. Seymour, counsel, to Mr. Robinson dated January 30, 1961, re Nationwide Savings and Loan Association, and ask you if Mr. Robinson sent that letter to you upon its receipt? A. He did.

Q. Right after it was written? A. Soon after it was written, yes.

(Mr. Doub) I offer this letter, Your Honor.

(The Clerk) Defendant Johnson exhibit 55 marked in evidence.

(The Court) What is the date of it?

(The Clerk) January 30, 1961 to William L. Robinson from the firm of Nova & Seymour, New York, 120 Broadway, New York.

(Defendant Johnson Exhibit 55 marked in evidence.)

(Mr. Doub) Now, this letter states.

"Dear Bill:

"I have prepared and enclose herewith the necessary resolutions and signature cards to open accounts in:

"1. The First National Bank of Snow Hill,

"2. The Exchange and Savings Bank of Berlin, Maryland.

"3. The Gotham Bank."

Now, at that meeting in New York, had you requested the persons associated with Nationwide Savings and Loan Association if they would open a branch in Worcester County? A. I did and I was very hopeful that they would open a branch in Worcester County.

* * * * * *

[Tr. 3268-3291]

Q. Mr. Johnson, is there any comment you would like to make as to what you said in that meeting in New York? A. At the meeting I told them that I would like for them to consider locating a branch on the Eastern Shore of Maryland. We were badly in need of capital. It was an area that needed funds for building and home improvement.

At the meeting a resolution was passed designating the Exchange Bank of Berlin, First National Bank of Snow Hill as depositories in my district. I was asked to see both banks, arrange signature cards. I do not recall as to the First National Bank of Snow Hill but I did contact Mr. Raymond Davis, who is Cashier of the Exchange and Savings Bank, the one who testified here some weeks ago, and at my request, he sent to New York the necessary signature card applications.

Q. Mr. Johnson, who paid for your travel expenses to and from New York for yourself and Mrs. Johnson on that occasion? A. That is for the meeting you speak of. The Dranow—with Arthur Spielberg and this—

Q. Yes. A. I paid personally, all of my traveling expenses to and from New York.

Q. Who paid for your hotel bill? A. I think First Continental Mortgage or First Continental paid—First Continental Savings, paid for that hotel bill, one or the other.

Q. Now, Mr. Johnson, let us turn to the Cassell matter, which I understand was referred to you in early 1961.

(Mr. Tydings) Your Honor, why doesn't he just ask the Congressman what was referred to him in 1961 instead of suggesting?

(The Court) I was hoping we could get somewhere by leading questions to save time but if Mr. Tydings objects to leading questions, he may go back to—

(Mr. Tydings) That was not even a leading question. That was a statement.

By Mr. Doub:

Q. I show you what purports to be an original letter from Mr. Robinson to you dated February 3, 1961, and ask you if you received that letter? A. Yes.

(Mr. Doub) This has been seen, Your Honor, by all counsel and I offer it in evidence.

(The Clerk) Defendant Johnson exhibit 56 marked in evidence.

(Defendant Johnson exhibit 56 marked in evidence.)

(Mr. Doub) This is a letter on the stationery of Mr. Robinson, Attorney At Law dated February 3, 1961, addressed to Mr. Johnson.

"Dear Tom:

"I enclose herewith one copy of a proposed loan agreement to The A. I. Cassell Land Corporation, together with a copy of one of the mortgages and one of the notes for your examination. I believe, from the Loan Agreement, the reason for this loan is obvious; namely, that a lien has been filed against the subdivision, which must be released in order to continue the sales of lots in the subdivision.

"At this particular time we do not desire to record additional mortgages against the Cassell property, and according to our accountant the bonds that we will post with the surety company will be carried on our books, until or unless some demand is made against these bonds, as a withdrawable deposit as would be done with a gas company or electrical company deposit. I would appreciate your opinion of these documents at your earliest possible convenience.

"Thanking you for your many courtesies and your past cooperation, I am,

"Very truly yours,

"W. L. Robinson."

By Mr. Doub:

Q. Now, Mr. Johnson, will you tell the jury just what was this matter that Mr. Robinson referred to you by his letter of February 3, 1961? A. It dealt with the development in Calvert County known as Chesapeake Heights On the Bay, which has been referred to in the testimony as the A. I. Cassell Company. That loan was made during June of 1960. It aggregated, I believe, some $1,600,000. In the construction period which continued, a company known as the H. V. Humphries & Sons Company who were contractors in Southern Maryland, did work on the development and not being paid, there was some dispute and through a local attorney they filed a mechanics lien, which was against the entire subdivision. And, as a result, there was no further sales that could be made with that lien on the subdivision.

Q. Now, this $1,600,000 loan had been made in June, 1960, had it not? A. Yes, I had nothing to do with the loan that was made.

Q. On the original loan? A. No.

Q. You had nothing to do with the preparation of the original papers such as the loan agreement and mortgage and so on? A. No, I had absolutely nothing to do with the original papers.

Q. And the problem here was how to lift the mechanics lien? A. Yes, Mr. Robinson came in and he did not understand the effect of a mechanics lien. He told me in Florida they were not troubled under the circumstances. They had some other procedure.

I told them that it was serious to the degree that certainly there could be no further sales in the subdivision with this lien.

He wanted to see a copy of the mechanics lien law and more information which was provided for him. Then it came to a point of negotiating with the attorney for the settlement of the H. V. Humphries claim. It was a claim of $19,000.

I did not negotiate as to the settlement of that. Mr. Robinson reported to me that a Mr. Harry Bowen, I believe, is the one who was handling that in Calvert County, that it would be lifted if there could be filed in the proceedings a corporate bond in the amount of $20,000. If that bond were filed, then they could proceed with the negotiation for a settlement of the claim.

The problem with Mr. Robinson was that Mr. Cassell who developed the A. I. Cassell Company, was the one who was the head of that development, and wanted to borrow $20,000 from First Colony Savings and Loan Association in order to place a corporate bond or have a bond placed in the proceedings.

So Mr. Robinson talked with me. He had in mind first one

mortgage. That for reasons I don't recall, he found not feasible. I suggested individual mortgages. Mr. Cassell could not give a first mortgage for security.

Mr. Robinson went over the portfolio to pick out what mortgages were outstanding to determine which mortgages could be placed as a second mortgage and still be within the advertised percentage loan limit of that institution. It was determined that there would be five mortgages prepared to secure this $20,000.

Q. You mean they would be mortgages on five separate lots? A. Five separate parcels of real estate. I did not prepare the mortgages. Mr. Robinson prepared those, brought those to me. He was greatly concerned as to the effect of the second mortgage.

He insisted on my giving him a letter, which I did, that being a second mortgage. There was a merger of interest. Certainly I felt there was no problem as to the First Colony having a good lien.

Q. Now, if I may—if Mr. Tydings will permit me to ask a leading question—wasn't the problem that the associations had advertised they only loaned money on first mortgages? A. Only on first mortgages.

Q. And here they had a first mortgage, and now they going to loan $20,000 in addition on the same property? A. That is correct.

Q. Secured by the same property? A. That is correct.

Q. And what opinion did you express to Mr. Robinson as to that? A. Well, they had another advertising policy, Mr. Robinson told me, that even on first mortgages they would only go to a certain percentage of its appraised value.

So we had both problems to contend with, the problem of first mortgages and complying with the advertising policy of their percentage on appraisal of the property. So it was worked out that the five mortgages, which are very small

in amount, would merge with the original interest, giving First Colony, as I term, a first lien on that property, and would not be a second mortgage in the sense that it was referred.

Q. Are you in effect saying that when a lender holds both a first mortgage and a second mortgage on the same property in the aggregate it is just the same as a first mortgage? A. There is a merger if the parties are one and the same, and it is on the same property.

So following giving me the mortgages, I reviewed the mortgages, and at the time prepared a release which was sent down to Calvert County to Mr. Bowen to be executed so that the mechanic's lien could be lifted.

At the same time I had seen for the first occasion the form of the A. I. Cassell mortgage, and that disturbed me because the affidavit on their printed form was not pursuant to our requirements of the Maryland law.

Q. There was no affidavit of consideration at all, was there? A. It was lacking entirely the consideration in the affidavit by the mortgagor.

Q. As to the payment of the consideration? A. As to the payment.

Q. And what did you do after you noticed this defect in this mortgage? A. Well, Mr. Robinson said that the matter, I think, had been discussed, but nothing had been done about it. I asked him how many mortgages were in the portfolio of the A. I. Cassell Company. He told me that it was several hundred mortgages aggregating in excess of $900,000. I told him that I felt that certainly there should be immediate attention given to correction of those mortgages.

Q. Now, did you then call Mr. Adelberg in Baltimore? A. I first had Mr. Robinson to bring me one or two samples, additional samples, which disclosed that they, too, were defective as to our Maryland requirement.

I then contacted Mr. Adelberg and suggested to Mr. Adelberg that he go over the entire portfolio of the A. I. Cassell Development Company.

Q. All mortgages? A. All mortgages.

Q. In the Silver Spring office? A. That is true.

Q. Now, Mr. Adelberg testified that he did that, and he also testified that he brought those mortgages back to your office. Did you ever have occasion to examine them in his office? A. I did because Mr. Robinson had the idea that there could be a simple amendment to correct the defect. I certainly objected to such a correction by a simple amendment.

Mr. Adelberg and myself and Mr. Robinson had one or more meetings. At those meetings we thought first that it may have to have individual confirmatory mortgages. Mr. Robinson objected to that. He said that it would cost approximately $1,500 to $2,000 to prepare and to file new mortgages.

I discussed with Mr. Adelberg further as to how best to correct these mortgages, and we agreed that one confirmatory mortgage would suffice, and Mr. Adelberg prepared the confirmatory mortgage.

Q. Now, Mr. Johnson, I think you testified in connection with this advice you gave Mr. Robinson as to this $20,000 mortgage split into five separate mortgages would not violate the advertising policy of the company. Did you write him a letter as to that? A. I did. He insisted, but I have been unable to find a copy of my letter.

Q. Mr. Robinson asked you for a letter on that? A. He did.

Q. And do you recall writing him a letter? A. I do recall.

Q. And you have not been able to find it? A. I have not.

Q. Would you say you had few or many conversations with Mr. Robinson about the problems you have mentioned in connection with Cassell? A. Oh, I had several with Mr. Adelberg. I think most of our conferences were by telephone, with the exception of two or three in his office.

Q. And did you have telephone calls with Mr. Robinson also? A. Very few telephone calls. Mr. Robinson would see me at my office or at my hotel in the evenings.

Q. Now, I show you what purports to be an original letter from Mr. Robinson to you, dated March 31, 1961, and ask you if you received that letter? A. Yes, that is a letter addressed to Johnson and Johnson, Berlin, Maryland, attention: Thomas F. Johnson, dated March 31, from Mr. Robinson.

(Mr. Doub) I offer it in evidence, Your Honor. It has been seen by all counsel.

(The Clerk) Defendant Johnson's Exhibit No. 57 marked in evidence.

(Defendant's Exhibit No. 57 was received in evidence.)

(Mr. Doub) (reading)

"Dear Tom:

"I enclose herewith my check in the sum of $800.00 in payment for your services for March, and would appreciate your opinion at your earliest convenience on the following matter:

"In the new savings and loan law, Section (D)(1) of 161P provides:

"'(D) Compliance. Any exisiting association which qualified for the exception to Sub-section (A) provided in Sub-section (B) hereof and which desires and intends to continue in the building, savings and loan business shall on or before January 1, 1962: (1) Require the use, at all times in connection with such name, the phrase, in parentheses, 'Stock Corporation'.'

"The act in numerous other sections refers to guaranty stock and, of course, contains specific provisions requiring the capital stock to serve as guaranty stock and, of course, at least technically all savings and loan associations are stock corporations. The question I desire your opinion on is would we comply with the quoted provision if we were to put in parentheses the phrase 'a guaranty stock corporation' or would compliance with the statute be limited solely to the use of the words 'stock corporation'?

"My personal opinion is that the intent and purpose of the act is to distinguish between those corporations having guaranty stock and those corporations having only free shares, and if that is correct then there should be no objection to the use of the words 'a guaranty stock corporation'. Mr. Goldman, whom you have met, disagrees with me and he feels that the statute having specifically put in quotes the words 'stock corporation', that we are limited solely to the use of those two words. Actually, it seems to me that the sole phrase 'stock corporation' by itself would be somewhat misleading since, as I previously stated, all savings and loans are stock corporations and the distinction in fact, and by the statute itself, is between those stock corporations which have guaranty stock and those which do not.

"Printing of new envelopes, letterheads, and so forth is being delayed prior to a final decision in regard to the phrase to be placed in parentheses. Please give me your opinion at your earliest convenience.

"Thanking you again for your many favors and your past cooperation, I am,

"Very truly yours,

"W. L. Robinson."

By Mr. Doub:

Q. Now, Mr. Johnson, upon receipt of that letter, what did you do? A. I met with Mr. Robinson. I gave him first what I felt was a hurried opinion. I told him I thought the

Legislature was rather explicit in the statute and by designating the word stock corporation specifically there was no question, but he was wrong in his interpretation of the act.

He was not satisfied. He said he felt that I was wrong, to look at more law. Well, I frankly, couldn't find much law on this particular subject. That went on, I would say, possibly two or three weeks or maybe a month. Mr. Robinson stated that he had to have a decision; that it involved not only the stationery, but a very large sign that they were erecting, running into quite a large sum of money.

So it resolved itself that Mr. Robinson just wasn't satisfied with my opinion, and I told him that I felt it could be concurred in by the Attorney General, Mr. Finan.

I asked Mr. Hickman, who is in Berlin, I dictated a letter for Mr. Hickman to Mr. Finan.

Q. Asking for the Attorney General's opinion? A. Yes, because I felt it was a matter that would be coming up with other associations. It had statewide interest. Furthermore, I didn't think as a Congressman I should possibly ask for an opinion from the Attorney General.

Q. Now, do you have that letter from Mr. Hickman to the Attorney General, which you say you prepared? A. I do.

(Mr. Doub) I would like to offer in evidence, Your Honor, an office copy of the letter from Russell O. Hickman to the Honorable Thomas B. Finan, Attorney General, dated May 8, 1961, which the witness has stated he dictated to Mr. Hickman.

(The Clerk) Defendant Johnson's Exhibit No. 58, marked in evidence.

(Defendant Johnson's Exhibit No. 58 was received in evidence.)

(Mr. Doub) The letter reads:

"Dear Mr. Attorney General:

"In the so-called Case Bill, now enacted into law, Section (D)(1) of 161P provides:

"(D) Compliance. Any existing association which qualified for the exception to Sub-section (A) provided in Subsection (B) hereof and which desires and intends to continue in the building, savings and loan business shall on or before January 1, 1962: (1) Require the use, at all times in connection with such name, the phrase, in parentheses, 'Stock Corporation';

"The act in numerous other sections refers to guaranty stock and, of course, pertains to specific provisions requiring the capital stock to serve as guaranty stock. The question I desire your opinion on is whether there would be compliance with the quoted provisions if an association put in parentheses the phrase 'a guaranty stock corporation,' or would compliance with the statute be limited solely to the 'stock corporation.'

"Thanking you for an early reply, I am

"Sincerely yours,

"Russell O. Hickman."

By Mr. Doub:

Q. I am asking you whether the Attorney General replied to Mr. Hickman's letter confirming the opinion that you had already given Mr. Robinson repeatedly verbally? A. He did.

(Mr. Doub) Does Your Honor think the reply of the Attorney General is sufficiently pertinent to put it in?

(Mr. Tydings) Why don't you have it marked for identification?

(Mr. Doub) All right.

(Mr. Tydings) I think perhaps it ought to go in, Your Honor. If you don't put it in, we are going to offer it in.

(Mr. Doub) I offer the copy of the reply of the Attorney General, dated May 15, 1961, to Mr. Hickman's letter, of May 8th.

(The Clerk) Defendant Johnson's Exhibit 59 marked in evidence.

(Defendant Johnson's Exhibit 59 was received in evidence.)

(Mr. Doub) (Reading)

"Dear Mr. Hickman:

"We have your letter of May 8, in which you inquire whether or not Section 161P (D)(1) of the Case Bill would be complied with if an association should put in parentheses (after its name) the phrase 'a guaranty stock corporation' as set forth in the aforesaid section.

"Subsection (D) was enacted for the purpose of setting forth the requirements necessary in order to take advantage of the exception provided in subsection (B) of the same section. The General Assembly was quite explicit in setting forth those requirements and, in regard to the name of any association which desires to take advantage of that exception, designated the exact words which it required for identification of such association. It did this by placing the words 'stock corporation' in quotation marks within the other words, whether of similar import or not, and we can only conclude that by placing the words 'stock corporation' in quotation marks, the General Assembly meant that those words, and none other, should be used.

"Accordingly, it is our opinion that the use of the language 'a guaranty stock corporation' would not constitute compliance with the above mentioned section and subsection of the Case Bill.

"Sincerely,

"Thomas B. Finan

"Attorney General

"James P. Garland

"Assistant Attorney General."

By Mr. Doub:

Q. Now, I wish to direct your attention next to the Charles County 8,000 acre tract of land, Mr. Johnson. Do you recall about January 1961 any discussions with Mr. Frank Boykin about his problems with respect to the 8,000 acre tract of land in Charles County? A. I do.

Q. And when did these conversations occur? A. It is difficult to pinpoint exactly the time. I am inclined to think it was early January 1961. It could have been earlier, but it was during that period of time.

Q. Now, how well did you know Mr. Frank Boykin at that time? A. It had been my pleasure to have known him for only the term that I served in Congress. He was the Vice-Chairman of the Merchant Marine Committee. At the Committee meetings—

Q. You were on that committee? A. I was on the Committee. We had a very close relationship, and like all of his other friends, we all loved Congressman Boykin.

Q. And you were a good friend of his? A. A very good friend.

Q. Now, what did Mr. Boykin tell you about this property at Waldorf? A. Congressman Boykin told me that he had an interest in some 8,000 acres of land located in Southern Maryland at a town near Waldorf which is only a short distance—some 20 miles, from Washington—the great potentials that the property had. He told me that a firm by the name of D. G. & R.—which later became known as Desser & Garfield, were endeavoring to develop the tract of land. That they had been running into some difficulty of getting adequate financing.

Q. Did he tell you that they had bought it from Albert Ernest? A. Yes, he had gone into detail. He told me that D. G. & R. had bought I believe, from three sources. It was from Albert Ernest, the Washington Turpentine Company, I believe he stated, and a third was the Tensaw Land and

Timber Company. It comprises many, many tracts which had been placed into the one large tract of land.

Q. Did he mention that Ernest held a mortgage from Desser & Garfield of about $6 million? A. Yes, in the discussion I learned that Desser & Garfield, they were known later as Desser & Garfield, in January, 1958 had given a mortgage for some $6 million which later was reduced, I believe, by the April payment, to $5,900,000.

That the mortgage was on the property to Mr. Ernest, Albert Ernest.

If you could refer to my records because I want to get it correct. The purchase money mortgage was dated January 27, 1958, and the notes were dated April 1, 1958.

It ran for a period of ten years. In other words, a ten-year amortization at a rate of interest of one per cent per annum.

Q. Now, what did Mr. Boykin tell you as to what Desser & Garfield were interested in? A. He told me that Desser & Garfield had been very successful in a Florida operation. He thought Desser was an excellent man; he told me of the great potentials they had in the property.

Q. What experience did he say Desser & Garfield had had in land development? A. He referred, I think, to a 5,000 acre tract in Florida.

Q. Tract in Florida? A. Yes, that Mr. Arthur Desser—who is president of the company—had developed. Also a development, I believe, in California. And that in this particular tract that Desser and Garfield had made payment on the mortgage of some $105,000 and had gotten a release of 97 acres land which he referred to as "the window."

That Desser had spent considerable money in the development of this 97 acres, but desired to have more development capital to go on with the development.

Q. And what suggestion did you have to make to Mr. Boykin? A. I told him I had been doing some work for

lending institutions, that Mr. Kenneth Edlin had represented himself as underwriter. That it started first with the Assateague Bridge involving some $1,700,000. That there had been loans under discussion and loans that had been made involving several millions of dollars; that Mr. Edlin had represented himself as being financially responsible to make substantial loans. That if the Congressman desired, I would be happy to see whether or not Mr. Edlin would be interested in talking with him.

Q. And what happened after that—what did Mr. Boykin say? Was he interested in meeting Mr. Edlin? A. Mr. Boykin was very enthusiastic. He said that he had an interest in the mortgage. He did not tell me what interest but he was very desirous of going on with the development. He stated it was the largest tract remaining of its kind in any or near any metropolitan area, that he would like very much to arrange a meeting with Mr. Edlin.

Q. And did you arrange such a meeting? A. I did. On January 6, 1961, I arranged a luncheon at the Capitol in Washington at which time I introduced Congressman Boykin to Mr. Edlin.

Q. What happened at the luncheon? A. Well, at the luncheon Congressman Boykin went more in detail as to this great development. He stated that not only for residential but that Desser was interested in the commercial aspects, too, and there had been I think, one or two glass companies that were interested in going in. At that time we had some 6 million unemployed in America. The Congressman spoke about the need for employment: What it would mean to the area to have particular factors, that there was need for housing, that he felt that this development with its potentials, certainly should be attractive and Mr. Edlin replied that it was a type of a loan that he felt that his lending institutions would be interested in; that he stated that he was underwriting not only underwrited for the savings and loan but had certain banking interests or connections; that he would review the requests for a loan.

Q. Now, after that meeting did you talk with Mr. Boykin?

A. On January 7, 1961, I received a copy of a telegram sent by Congressman Boykin to Mr. Arthur Desser.

Q. Is this the copy of the telegram to which you refer? A. It is.

* * * * * *

[3293] Now, Mr. Genn, do you wish to make some statement?

(Mr. Genn) Yes, Your Honor.

(The Court) Page 3188 you said.

(Mr. Genn) I would simply like the record to show, Your Honor, that in reference to page 3188 particularly, I think the comments of Mr. Tydings and Mr. Marion in reference to letters that were being offered, do seem to me to tend to be comments upon the duty of the defendant to bring forward evidence in the case. And I think that this is improper. I would like the record to show that I do object to that form of comment, particularly, I think it is not may be intended at that time, but that was the result of Mr. Marion's comment. I do object to that and I want the record to show it.

[Tr. 3303-3304]

Q. Now, what happened next, Mr. Johnson, after Mr. Boykin sent that telegram to Mr. Desser? A. Some days later Mr. Desser came to Washington and there was a meeting at Mr. Lykes Boykin's law office in Washington.

Q. Who were present at that meeting? A. Mr. Desser, Mr. Lykes Boykin, Congressman Boykin, Mr. Edlin, Mr. Robinson and myself.

Q. Will you state whether or not there was made available at that meeting the plats and plans for the Boykin City Development? A. Whether on that meeting but certainly a meeting very close to the original meeting there was or were plats. Those plats were termed plats of Boykin City which projected the proposed development in Southern Maryland.

Q. Well, now, what was discussed at that meeting? A. The question of financing. That Mr. Desser had started this development in Southern Maryland. He had what was termed the "Window" comprising some 97 acres near Waldorf. Considerable work had been done by way of engineering, laying out of site planning. He was desirous of additional funds. In the discussion he mentioned that $600,000 or thereabouts would be the amount that he felt would be required to proceed with it.

Q. Did he submit to the meeting any memorandum that had a breakdown of the allocation of the $600,000? A. He did. Whether at that meeting or the following one, but I was given, and I presume the others present, what he considered were the items to be financed.

Q. Now, do you have the memorandum which he had submitted to the meeting? A. I have.

Q. And is this such a memorandum? A. That is.

(Mr. Doub) I offer it in evidence as Johnson exhibit 61.

(The Clerk) Johnson exhibit 61 marked in evidence.

(Defendant Johnson Exhibit 61 received in evidence.)

* * * * * *

[Tr. 3306-3310]

Q. Now, Mr. Johnson, did there ensue further meetings and discussions with respect to this proposed loan to Desser and Garfield? A. Yes.

Q. Calling your attention to the amount of the loan, what evolved from those discussions?

(Mr. Tydings) Was he present? What is he testifying from now?

(Mr. Doub) Were you present at these meetings?

(The Witness) I was present at the meetings in which it was discussed. The proposal as to the $60,000-some—there were subsequent meetings in which it was suggested that this would not be adequate. That with a development of the magnitude of 8,000 acres, ultimately there should be

provided funds for a shopping center. There should be a hunting club. There should be a country club and many other items. It resolved that it was estimated some $2 million would be required to proceed with a proper development.

By Mr. Doub:

Q. Now, Mr. Tydings inquired whether you were present at all such meetings at this early stage, were you present at all such meetings? A. I would say I was present at all of the meetings in the initial stage.

Q. Now, what did you receive from Mr. Robinson about this time? A. On February 6, 1961, I received a communication from Mr. Robinson with certain enclosures.

Q. Do you have that letter from him? A. I do.

(Mr. Doub) I offer Mr. Johnson's Exhibit 62, a letter from Mr. Robinson to Mr. Johnson dated February 6, 1961 with the enclosures.

(The Clerk) Defendant Johnson Exhibit 62 marked in evidence.

(Defendant Johnson Exhibit 62 marked in evidence.)

(Mr. Doub) This letter reads:

"Dear Congressman Johnson:

"I enclose herewith for you examination preliminary draft of loan agreement with Desser & Garfield-Maryland, Inc. This preliminary draft is in essence an outline, and a number of the provisions therein will, of course, be in more precise form when the agreement is reduced to its final terms.

"This present draft is essentially for the purposes of negotiation and discussion of the final terms of the agreement.

"I felt that very possibly you might have some suggestion or particular provisions which you might feel should be a part of the agreement when it is placed in final form, and would appreciate your comments at your earliest convenience.

"I also enclose for your examination my letter to Lykes M. Boykin, attorney for Desser and Garfield, (Md.) Inc.

"Thanking you for your cooperation, I am

Very truly yours."

The letter is dated February 6, 1961 and it contains a copy of a letter dated February 4, 1961, from Mr. Robinson to Mr. Lykes M. Boykin, addressed to Mexico City, Mexico. I will read just the first paragraph:

"Dear Lykes:

"I enclose herewith for your examination a very rough preliminary draft of the proposed loan agreement between Garfield and Desser, Inc., and First Continental Savings and Loan Association, Inc. The references to the lands to serve as security for the sums to be advanced are necessarily vague and certainly subject to adjustment. No attempt was made in this draft to prepare a breakdown as to the amount of monies to be secured against each of the different tracts and, of course, there are still decisions to be made as to what work will be done in each tract and the sums necessary for the improvements contemplated as to each tract serving as security."

By Mr. Doub:

Q. Now, Mr. Johnson, there is also attached to this letter to you a rough draft which Mr. Robinson referred to in his letter to you. Will you summarize that rough draft and also would you tell us whether those penciled notations on it are yours? A. This is the copy of the loan agreement which was enclosed to me with Mr. Robinson's letter. We worked on this original copy.

Q. Now, you had not prepared—strike that.

State whether or not you helped Mr. Robinson prepare that rough draft, initial draft which he enclosed with his letter? A. I did not assist in the original draft.

Q. I see. A. I received a copy of the draft and with

Mr. Robinson, we worked on the draft that he had proposed. There are so many corrections that soon thereafter we had a copy or redraft made of this original draft.

Q. Well, all right.

Now, do you have a redraft as it evolved after you and Mr. Robinson had worked his original draft over? A. I have, and I think we termed this the second redraft.

(Mr. Doub) I offer it in evidence, Your Honor, as Johnson Exhibit 63.

* * * * * *

[Tr. 3311-3356]

(The Witness) May I explain as to the draft, the original draft, there were so many notations that from that draft, there was a cleaner draft prepared. This is what we term the cleaner draft but this is still a rough draft.

(Mr. Doub) Now, is it the same as the original draft of Mr. Robinson's?

(The Witness) With some minor changes.

By Mr. Doub:

Q. And there are some minor changes in it? A. Yes, sir.

Q. What did you and Mr. Robinson do after you prepared this second draft? A. We further discussed the rough draft. We termed that a rough draft, too.

Q. Are these penciled notations in your handwriting? A. They are and some that have been made since to refresh my recollection.

Q. You made some of them? A. Yes.

Q. Later? A. Yes.

Q. Now, do you wish to summarize that for the jury or the major provisions of it? A. This is as we term it, the rough draft because, subsequently there was another draft which completely changed what I am now explaining.

This was prepared in February of 1961. It is a loan

agreement, proposed loan agreement. The parties of interest Desser & Garfield, Inc.

(The Court) When you say "this," now, you are talking about another paper or the one which has been offered?

(The Witness) The one which has been marked here. Leftcourt Realty Corporation appearing as the guarantor, and First Continental Savings and Loan Association as lending institutions. The property is not set forth on which the mortgage is to secure the loan. It merely says that that will be inserted.

The proposed loan is for $2,300,000. That is to be secured first on the 97 acres which was termed the "window" that Desser & Garfield owned in fee simple of this tract. It was also to be secured by approximately 1,000 acres which would be released from the Ernest $6 million mortgage.

It was further to be secured by an assignment of all the Desser & Garfield stock and lastly, it was to be secured by a guarantor, Leftcourt Realty Company, appearing as guarantor for the loan. And a very complicated way of guaranteeing. The were to issue debenture bonds to secure the loans.

The three tracts spoken of first the 97 acres on which there was to be erected some 295 homes, the money to be used for roadways, landscaping, water system for sanitation, sewer, outfall. In addition, there was to be a country club and around the country club a four-lot development. The remainder of the 1,000 acres was for general development.

The loan agreement also stated that there would be three apartment houses to be immediately erected, five residential homes. As to the work on the apartment houses and tial homes. As to the work on the apartment houses and homes, there was the usual percentage payoff as to the construction development. That is, as they progressed.

I may say that in the discussion with Mr. Robinson, himself, we had some disagreement from time to time. I

told him in the preamble that I thought there should be a provision made for two independent appraisers, some percentage to protect the amount to be loaned. Also, as to the payout, I suggested that whenever there was approval by a state or governmental agency, that should be considered in the payout and not paid out under those conditions.

That FHA approval should be set forth both on the general development as well as including the progressive inspection of the development.

There were additional securities—all of the mortgage notes that Desser and Garfield would secure would be assigned over as additional collateral.

The purpose of that was to reduce the amount of the loan that there could be financing on the mortgages which would be coming in from the development. There was provision made that First Continental or any lending institution had the right of nominating an officer of Garfield and Desser, that officer would join in on the signature of all checks to be issued in respect to development.

There was provision made as to approval by an architect which would be provided by Desser, subject to the approval of the lending institution and then Mr. Robinson had put in a provision that the lending institution could secure their own architect and that architect would act, which to me presented a problem because there could be a conflict.

We wanted to work out as to what would happen in the event that Continental would secure their own architect.

There were further provisions made that for insurance coverage, fire, storm and others, that that would be at the cost of Desser. I thought that was not broad enough. That there should be provision made for the Workmen's Compensation Act.

I also suggested that provision should be made that if the borrower fails to provide the insurance or fails to pay the premium, that the privilege should be to the lending

institution of paying the same and adding it to the loan. There was provision for taxes. I recall making the same suggestion, the right of the borrower in the event the borrower failed, that the lending institution could pay.

By Mr. Doub:

Q. You mean failed to pay the taxes? A. To pay the taxes that should be accumulated or that should be paid by the lending institution and charged against the loan.

Then there was other provisions as to the release clause which is a very complicated release clause in the repayment program. And that was stated to be equal to the pro rata share of such lot as to the entire mortgage plus 20 per cent of such pro rata share, for a total price which shall be equal to the pro rata share of each lot plus 20 per cent of such pro rata share. Meaning that in the release clause that the borrower would pay a 20 per cent premium and then it went on that if there was any profit over and above the release clause, 70 per cent of that profit the borrower would have to put in a special escrow account for further improvements on the property, where, he would not have to use as much of the loan as was originally planned for.

There was a provision that all fees, charges and such collected from the country club would be paid and applied on the mortgage.

I advised Mr. Robinson that certainly that would not be a provision to be included because it may intimate that the lending institution was operating a country club, that you should work out a lease arrangement or some other provision in respect to the receipts from such an operation.

There were two or three escrow accounts provided for. I suggested that there should be only one escrow account and one escrow party.

Provision was made for the outfall system, the lagoon system.

I suggested that we should have further conferences with the Town of Waldorf who had extended part of their line

into the area to ascertain whether or not something could not be worked out with the town which, to me would be more feasible than operating a private and distinct system. It also provided that this loan agreement, that they would get the consent of the Sanitation Commission as to the lagoon system. I suggested that that consent should be gotten in advance so there would be no difficulty with respect to the Sanitation Commission.

The loan agreement as proposed embodied some 35 pages.

(Mr. Marion) Mr. Doub, could I interrupt just a minute?

Was that 62 or 63 that the witness was referring to?

(The Witness) No. 63.

By Mr. Doub:

Q. That is Defendant Johnson Exhibit 63? A. Yes.

(Mr. Tydings) That was the one you were using during this long protracted testimony, 63?

(Mr. Marion) That was the second draft, I think you said, was it not?

(The Witness) It was sort of a rewrite of the original.

(Mr. Marion) The second rough draft, in other words?

(The Witness) Very rough.

By Mr. Doub:

Q. Now, as a result of these meetings which you testified you had with Mr. Robinson about these drafts, did a further draft evolve? A. Well, before that, Mr. Robinson and myself, working together thought it advisable to have certain memorandum to Mr. Lykes Boykin. Mr. Lykes Boykin was representing Desser and Garfield.

Q. Do you have copy of such a memorandum? A. I do.

Q. And who prepared that? A. Mr. Robinson as far as I can recall, prepared this and I notice that there were cer-

tain incorporations of the suggestions I made. Others made by Mr. Robinson and also made by either Mr. Desser or Mr. Lykes Boykin.

Q. And this memorandum is dated February 21, 1961, addressed to Mr. Lykes Boykin.

(Mr. Doub) I offer this as Johnson Exhibit 64.

(The Clerk) Defendant Johnson Exhibit 64 marked in evidence.

(Defendant Johnson Exhibit 64 marked in evidence.)

By Mr. Doub:

Q. Would you summarize that? A. Yes.

This is a memorandum to Mr. Boykin, Lykes Boykin.

(Mr. Marion) One moment. I am not sure that summarization of these documents is relevant here. The witness can tell, I assume, what, if anything, he did, but to summarize a document which otherwise speaks for itself—we will be here forever.

(Mr. Doub) We are trying to save time by not reading it, Your Honor, to the jury. I thought it would be much quicker and all I am really interested in, Mr. Johnson—

(The Court) I think he can make a somewhat shorter summary than the last time.

(The Witness) This is a memorandum to Mr. Lykes Boykin. Paragraph 1, that under the proposed agreement there would be no funds to be used for promotional activities such as advertising, public relations and so forth. That was a suggestion that I had made.

No. 2, was Mr. Desser felt that there should be some credit on the loan for the engineering costs that had been expended on the property and credit given against the loan.

By Mr. Doub:

Q. You mean those were engineering expenditures that had already been made by Desser & Garfield? A. Yes, and under paragraph 2 that there would be an allowance made for the engineering costs made by Desser & Garfield.

No. 3, provides for the two independent appraisers which, before the loan would be made, that appraisers would have to appraise the property at a value not to exceed 75 per cent of the appraisal as to prime security.

The fourth provision is one that I had insisted that no money be disbursed where the work is subject to approval by some state or federal government agency.

The fifth—I do not know who suggested it, but the subdivision plan must require approval of FHA.

Then attached thereto Mr. Desser had agreed that certain work had been completed so we could evaluate what would be the proper amount to be credited to loan for his engineering, and that goes into several pages as to what he had done.

Q. Just skip that.

All right, now you testified that you participated in meetings with Mr. Robinson in the preparation of these drafts of this proposed loan agreement. Did you participate in any meetings with respect to the terms of the proposed loan with Mr. Desser and Mr. Lykes Boykin? A. I did.

Q. And where were those meetings? A. Those meetings were in Mr. Lykes Boykin's office, some on the Hill.

Q. And what were the principal subjects discussed at those meetings? A. May I say, before getting to those discussions, the mortgage, the $6 million mortgage, was to mature on March 1, 1960, and it was necessary to prepare a modification agreement to extend the mortgage.

Q. And who prepared that? A. Mr. Robinson prepared

a modification agreement which I approved where we extended, had an extension of the mortgage to April 10, 1961.

Q. And did you not contribute anything to the drafting of that? A. I did not.

(Mr. Doub) I offer it in evidence, Your Honor, to keep the sequence.

(The Clerk) Defendant Johnson Exhibit 65 marked in evidence.

(Defendant Johnson Exhibit 65 marked in evidence.)

By Mr. Doub:

Q. This agreement extended the payments under the mortgage until what date? A. April 30, 1961.

Q. Now, do you recall anyone preparing an agenda with respect to what should be done and checked with reference to this proposed loan? A. I do, following the rough drafts of the other proposed loan, there was another meeting in Mr. Lykes Boykin's office. I was not present at the time the agenda was prepared but I was sent a copy of the agenda for the revised loan.

Q. Do you have it there? A. I do.

Q. And did you not participate, you say, in the preparation of this agenda? A. I do not recall doing it. I may have. I do not recall.

Q. Do you recall whether this came from Mr. Robinson or Mr. Lykes Boykin? A. I do not recall. It was in my file.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson Exhibit 66 marked in evidence.

(Defendant Johnson Exhibit 66 marked in evidence.)

By Mr. Doub:

Q. This bears a number of penciled notations on top of the various items and there are 21 items. Are they in your

handwriting or did you make them at the time? A. They are, and I do not know when they were made but they are in my handwriting.

Q. Now, Mr. Johnson, what difficulties arose with respect to this proposed loan? A. Well, immediately following the agenda there was no immediate difficulty because we proceeded then with another loan agreement, preparation of another loan agreement.

Q. You mean a draft? A. A draft.

Q. And that was prepared by whom? A. I would say that it was a combination of Mr. Lykes Boykin, Robinson and myself, with Mr. Robinson doing the major portion of the draft.

Q. Was that the result of a few meetings which you had or many meetings? A. Well, it was many meetings with Mr. Robinson, more between Mr. Robinson and myself, in the preparation or the re-work of this agreement, of this proposed agreement.

Q. And is this the redraft to which you have just referred? A. Yes.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson Exhibit 67 marked in evidence.

(Defendant Johnson Exhibit 67 marked in evidence.)

By Mr. Doub:

Q. Are there any provisions in here that you wish to call attention to, Mr. Johnson? A. Well, this proposed loan agreement is quite different from the previous proposal. The parties are the same.

Q. You mean the prior draft? A. Yes. The parties are the same constituting Desser & Garfield, Leftcourt Realty, First Continental Savings and Loan as the lending institution. It gives as security the 97 acres which Desser &

Garfield owned in fee. Also the 1,000 acres which was to be released from the $6 million mortgage.

Q. I would like you just to refer to the differences, Mr. Johnson, from the prior? A. Well, in this agreement, proposed agreement, we set out three distinct tracts. Tract A was to be 97 acres; then tract B was to be what we termed the Country Club Area of 150 acres with four lots deep surrounding the golf course, and tract C was the remainder of the 1,000 acres.

Then we set forth a suggested sum that would be required for development, storm drains, siding, roads, lagoon system and it was suggested that $900,000 be for development of Tract A; $480,000 for Tract B, $520,000 for tract C.

Also we put a ceiling on what could be expended from the loan, not more than $20,000 could be used for promotional activities such as advertising and public relations, and for legal fees not to exceed $50,000 a year; for Engineering, not more than $75,000 a year. That no part of the loan could be used for paying salaries for employees of Desser & Garfield. And that no part of the loan could be used for payment or compensation to salesmen engaging in selling the homes.

It goes quite into detail as to each tract, what is required before work can be started by way of plans and specifications. Then it sets up by provision before loans can be disbursed, that it must be approved by the architect or engineer, agreed upon by the parties. The same provision as to nominating of an officer by the lending institution. Those are the basic provisions.

Q. All right. Now, did you receive a letter from Lykes Boykin of about March 10? A. I did and as I spoke there we were dealing with tracts A, B and C and we were anxious to get cost figures and some plats of those three tracts which were provided for it in the loan agreement—proposed loan agreement.

Q. I now show you a letter from Mr. Lykes Boykin to you and ask if you received that letter? A. I did receive it.

(Mr. Doub) I offer it, Your Honor. The letter dated March 10, 1961.

(The Clerk) Defendant Johnson exhibit 68 marked in evidence.

(Defendant Johnson exhibit 68 marked in evidence.)

(Mr. Doub) On the letterhead of Boykin & De Francis, Grimes & Smith, addressed to the Honorable Thomas Johnson.

"Dear Tom:

"I am enclosing these cost figures and sketches of tracts A, B and C at the request of Bill Robinson.

"I will look forward to seeing you next week.

"Kindest personel regards,

/s/ "Lykes M. Boykin."

By Mr. Doub:

Q. Now, do you have a copy of these cost figures and sketches of these tracts which he states he was enclosing to you? A. I do not have them in my file, no, sir. I think they were presumably turned over to someone else.

Q. In the course of these discussions did Mr. Edlin indicate to you that this loan would be made entirely by First Continental Savings and Loan? A. No, it was stated then in the discussion that the amount proposed was more than what the institution would extend by way of a loan. That it would be a participation. That participation would be with First Colony and possibly other institutions.

Q. Now, I show you a letter dated March 1, 1961, from Mr. Robinson and ask you whether you received that letter? A. I did.

(Mr. Doub) I would like to offer it, Your Honor.

(The Clerk) Defendant Johnson's exhibit 69 marked in evidence.

(Defendant Johnson exhibit 69 marked in evidence.)

(Mr. Doub) Letter of March 1, 1961 from Mr. Robinson, Miami, Florida, to Congressman Johnson.

"Dear Tom:

"I will be in Miami for several days to take care of various matters during which time I would very much like the opportunity to discuss with you several of the loans that we are now considering and in particular the proposed Maryland development housing and apartment house loan and would appreciate it very much if you could meet me in Miami so that we might discuss these matters at length.

"Thanking you for your cooperation, I am

"Very truly yours."

By Mr. Doub:

Q. Now, Mr. Johnson, had you contemplated a vacation trip to Miami about the time you received that letter or not? A. I had and I told Mr. Robinson that I would be in Miami or near Miami possibly the early part of March, 1961.

Q. Had you told him before or after you received that note from him? A. I had told him before.

Q. You had told him before? A. In fact, I suggested he make reservations for me.

Q. When were you in Miami and where did you stay? A. I stayed at the Eden Roc Hotel, Miami Beach, arriving, I believe, on March 3, 1961.

Q. And you took Mrs. Johnson and two children? A. That is correct.

Q. Did you pay for your airline travel tickets for yourself and your family? A. I did.

Q. What is this check dated March 3, 1961? A. That is a check on my personal account at the Sergeant-at-Arms, House of Representatives, payable to National Airlines, in the amount of $306.04 dated March 3, 1961. It was in payment of airline tickets.

Q. Did that cover the airline tickets, the plane fares down from Washington to Miami? A. That was a one-way.

Q. One way.

Now, I show you a check dated March 6, 1961 to the National Airlines and ask you what this is? A. That is a check, as you have said, dated March 6, 1961, on the account, my account at the Sergeant-At-Arms, payable to the National Airlines in the amount of $223.32, and that was covering the return flight on March 6, from Miami to Washington.

Q. Now, I show you your check of March 6, 1961 payable to the Eden Roc Hotel and ask you what that is for? A. This check, as you stated, dated March 6, 1961, is on my account at the Sergeant-at-Arms in Washington, payable to the Eden Roc Hotel in the amount of $485.11 which paid in full my hotel bill during the three days or two days that I was in the hotel.

(Mr. Doub) I offer these, Your Honor. I suggested they be marked collectively as one exhibit.

(The Clerk) Check dated March 3 will be marked as Johnson exhibit 70-A; check dated March 6 in the amount of $223.32—National Air Lines, will be marked as Johnson exhibit 70-B, and check dated March 6, 1961 in the amount of $485.00 will be marked as Johnson exhibit 70-C.

(Defendant Johnson exhibits 70-A, 70-B and 70-C marked for identification.)

By Mr. Doub:

Q. Mr. Johnson, did anyone reimburse you for the ex-

penditures represented by the three checks which you have just identified? A. They did not.

Q. Now, did you have any business meetings while you were in Miami? A. I did.

Q. With whom? A. The first I recall now, and I had to refresh my recollection because it has been some time ago—the first was with a Mr. Makel Guerrieri, of the Shell Poultry Company in respect to his brother's estate. I had been assisting Mr. Guerrieri with respect to the settlement of his interest in that estate.

Q. Did you have any meetings with anyone else? A. I did. I do not know whether on one or two meetings with Mr. Robinson. They sent a car over and I went over to Mr. Robinson's Office. I do not remember whether I was there over one visit or two during the short time I was there.

Q. Now, what were the subjects of discussion? A. It dealth with a man named Bridges who had been an associate of Mr. Edlin, or had some connection with First Continental Mortgage Company. Mr. Bridges had made claim of a share of stock or a percentage of the stock in First Continental Mortgage.

He had made demand, I think, for $10,000 and certain threats or accusations in an effort to collect that amount of money. I know that was discussed. That was refreshed in my mind by Mr. Robinson. I had forgotten a great deal about it, but that was refreshed by letter that I received.

Q. Do you recall whether—

(Mr. Tydings) Refreshed by letter which you received?

(The Witness) Yes, sir.

(Mr. Tydings) Do you have that letter?

(The Witness) Yes, I have the letter.

(Mr. Tydings) Is it going to be in evidence?

(The Witness) It will be in evidence. Letter of March 8.

By Mr. Doub:

Q. Did Mr. Robinson submit to you a memorandum about that Bridges matter which you went over with him? A. He did. I refreshed it again by the letter that I received on the 8th and also I had asked Mr. Robinson to see a copy of the indictment against First Colony.

Q. And Mr. Edlin? A. And Mr. Edlin and other parties, and I asked him if I could have that to read the indictment. He gave me a copy of that.

Q. You brought it back to Washington? A. I did. There were other matters discussed as to loans. I do not recall which ones for the moment.

Q. Did you have any discussion in Miami with Mr. Robinson as to the possibility that you might make any visits to the Department of Justice? A. None whatsoever at that time.

Q. Now, you have referred to a letter of March 8, 1961, from Mr. Robinson to you. I show you Government Exhibit No. 92 and ask you if that is the letter to which you have referred? A. That is a copy of the letter that I received.

(Mr. Doub) I will read the first sentence.

"I enclose herewith for your inspection three letters of James W. Bridges, one being dated September 25, 1958, which enclosed his resignations and requested the sum of $10,000 for his alleged stock interest,"

(Mr. Tydings) Read the rest of the letter just to get the complete context in since it has been referred to here, Mr. Doub, please,

(Mr. Doub) (reading)

". . . closing, as you will note, with the expression that pending acceptance he would withold further action. As you of course know, this was followed up by conversa-

tions with Rinehart, a conversation with Kenneth in which verbal threats were made in an attempt to collect the $10,000."

By Mr. Doub:

Q. Was that the $10,000 that you referred to as the claim he was asserting to be paid for the stock interest? A. He was making demand for a $10,000 settlement as reported to me.

Q. "Also enclosed is letter of November 20, 1958, to Slipher of the Savings and Loan League, which letter I believe is self-explanatory, and another letter which was written to Seymour Guthman, an attorney in Washington, in which he threatened to go to various authorities.

"I understand that similar letters were written to other members of the Board of First Colony and officers and resulted in several of them resigning through fear of adverse publicity. If Bridges were to carry out his threats as contained in his letter to Gutman of November 28, 1958, I do not believe that this correspondence can leave much question as to the vindictiveness and viciousness of Bridges and I trust they will be of some assistance to you in your redrafting of the memorandum given to you during our conference in Miami.

"Thanking you for your many favors and your cooperation, I am

"Very truly yours,

"W. L. Robinson."

Now, he says "I trust that this will be of some assistance to you in your redrafting of the memorandum given to you during our conference in Miami." What memorandum was he referring to? A. I presume in reference to Bridges. To be very honest with you, I have forgotten most of it by this time.

(The Court) What number is that?

(The Clerk) No. 92.

Government exhibit 92.

(Mr. Tydings) Are you going to follow up with this memorandum on Bridges, Mr. Doub? He refers to a memorandum on Bridges and other enclosures. Since you have put this in, we would like to see them.

By Mr. Doub:

Q. Do you have the other enclosures referred to in that letter from Mr. Robinson to you? A. I don't have it.

Q. Now, Mr. Johnson, will you tell the jury why this proposed loan agreement which you have testified you worked on with Mr. Robinson was not consummated? I am talking now about the proposed loan to Desser & Garfield? A. Yes, during March the negotiations that we had bogged down. The reason being, one that Mr. Desser through Mr. Lykes Boykin thought there were too severe restrictions by the lending institution on the money to be used in the development; further, that the security, the request for the amount of security was greater than should be required. Furthermore, that Desser & Garfield, which was a subsidiary of Leftcourt, the stock, as we understood it, was pledged by Leftcourt with a Philadelphia Bank and it was difficult to get the release of the stock which had been a part of the proposed agreement. That is, the assignment of that stock over to the lending institutions.

Q. As further collateral? A. As further collateral. Also at that junction, further compilations arose that Mr. Edlin was connected with the savings and loan association, that is, First Colony, First Continental. And the fear that FHA would not approve the lending institutions that were to participate in the loan.

Q. Now, in March of 1961, and after you say the negotiations for this loan to Desser & Garfield had bogged down, do you recall any legal work you did with respect to an alternative proposal? A. Yes, there was a meeting and I am rather confident that Mr. Desser was present although I am not able to say positively. It was thought

that the approach would be to divorce Mr. Edlin from the the savings and loan, or any suspicion or any idea that he was connected with the savings and loan and also to change ownership of First Colony and First Continental so there was a discussion whereby Leftcourt—which was a corporation listed on the Exchange—

Q. What exchange? A. I think the American, I am not positive. I think it is the American. —that there would be an agreement worked out for exchange of stock that Leftcourt would exchange 500 shares of its stock for all the Class B stock owned by First Continental Mortgage Company of First Colony, and First Continental and, purusant to those negotiations. Mr. Robinson and myself prepared a rough draft of an agreement for that exchange.

Q. Do you have such a draft with you? A. I do.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson exhibit 71 marked in evidence.

(Defendant Johnson Exhibit 71 marked in evidence).

(Mr. Tydings) Mr. Doub, was Mr. Desser represented by counsel in these meetings in connection with this draft?

(Mr. Doub) I will ask you this, can you answer Mr. Tydings' question?

(The Witness) Mr. Lykes Boykin was the counsel for Desser & Garfield and throughout all of the transactions up to a point later in the dealings.

By Mr. Doub:

Q. Do you remember whether Mr. Lykes Boykin participated in any meetings with respect to this idea of an exchange of stock of Leftcourt? A. I do not. I presume that he did but I cannot say what his participation was. I do know that he was mentioned as one of the parties in the agreement. I am confident he was consulted.

Q. Now, did anything come of that proposed exchange of stock? You have testified that you worked on this initial draft of an agreement? A. No, it ran into so many complications that that finally was abolished.

Q. Do you recall working on any other alternative proposal? A. I do.

Q. And this would be in what month? A. In April, 1961.

Q. What did those negotiations relate to? A. They related that First Continental Mortgage Company would buy all of the stock of Desser & Garfield and would also make a payment on the Ernest mortgage, the $6 million mortgage in order to secure modification provisions of that mortgage.

Q. Now, did you receive from Mr. Robinson a copy of a letter from Mr. Robinson to Lykes Boykin dated April 10, 1961? A. I did.

Q. Do you have it there? A. I have it.

(Mr. Doub) I offer this in evidence.

(Mr. Tydings) Is that the copy which Mr. Johnson received? Is what you are offering now a copy which Mr. Johnson received?

(The Witness) I received a copy but that looks like a photostat. I do not know where my copy is, Whether the Government has it or Mr. Doub has it.

(Mr. Tydings) Do you know where that came from?

(The Witness) I received that from Mr. Robinson.

(The Clerk) Defendant Johnson exhibit 72 marked in evidence.

(Defendant Johnson Exhibit 72 marked in evidence.)

(Mr. Doub) And I will identify it further.
Johnson Exhibit 72 is a letter on the letterhead of Mr.

Robinson. I should say it is a photostatic copy of a letter, on the letterhead of W. L. Robinson dated April 10, 1961, addressed to Boykin, DeFrancis, Grimes and Smith, Solar Building, Washington.

"Gentlement:

"I enclose herewith to be held by your firm as escrow agents, two cashier's checks, one in the amount of $100,000 and one in the amount of $30,000 payable to Albert Ernest, together with a certain modification agreement of existing mortgages encumbering that property in Charles County, Maryland, now known as Linda City. Said cashier's checks for $130,000 to be delivered to Mr. Ernest upon the happening of all the following events:

"1. The execution by Albert Ernest of the modification agreement enclosed herewith.

"2. The delivery to you as escrow agent of all capital stock of Desser & Garfield—Maryland, Inc., and that certain notes for approximately $30,000 representing an indebtedness to Leftcourt Realty, Inc., from the owner of the Charles County Newspaper;

"3. The delivery of a letter by Lykes Boykin to First Continental Savings and Loan Association, Inc., stating that he has conferred with the necessary state officials and confirming the acceptability of a lagoon sanitation system for 1500 users upon the premises known as 'Linda City.'

"4. Receipt of a letter from Thomas P. Johnson, Attorney of Snow Hill, Maryland, to the effect that he has conferred with the necessary agencies and that there are no existing road projects which would interfere with the development of Linda City and that there are no zoning restrictions which would prohibit or interfere with the construction upon the premises of a county club and golf course, hunt club, cabana club and youth center together with trials and bridle paths necessary and proper for such facilities and further confirmation that the plats heretofore prepared for approximately 259 lots but in no event

less than 250 lots, the first section of Linda City can be recorded with the approval of the Charles County Planning Commission.

The matters set forth in paragraphs numbered 1, 3 and 4 of these escrow instructions shall be performed on or before Friday, April 14, 1961. And the matters set forth in paragraph No. 2 hereof shall be performed on or before three days after completion of items 1, 3 and 4 are not completed within the time hereinabove set forth, then in such event you, as escrow agent, are authorized and instructed to return the checks for $100,000 and $10,000 to First Continental Savings and Loan Association, Inc., and to return to Albert Ernest any and all papers executed by him. In the event that each of the matters described in paragraphs 1, 2, 3 and 4 are completed within the time hereinabove specified, you are authorized and instructed to deliver the said checks for $100,000 and $30,000 to Albert Ernest and to simultaneously deliver to First Contimental Mortgage Corporation, a Florida corporation, or its nominee, the capital stock and note described in paragraph numbered 2 of these instructions and upon such delivery you as escrow agent, shall be discharged of all obligations.

"Thanking you for your cooperation in this matter, I am

"Sincerely yours,

/s/ "W. L. Robinson."

It contains this endorsement:

"We hereby accept the conditions imposed upon us as escrow agents in connection with this offer and agree to abide by the terms thereof and acknowledge the receipt of cashier's checks payable to Albert Ernest totalling $130,000.

"Boykin, De Francis, Grimes & Smith,

"By Lykes M. Boykin, Partner."

Now, did you assist in the prepartion of that offer?

(The Witness) Not as to the letter, no.

Q. You did not assist in the preparation of that offer from Mr. Robinson? A. No.

Q. Now, did Mr. Robinson at about this same time make an offer to Desser & Garfield? A. Yes, sir, but with the letter there were enclosures, 1, a purchase money promissory note, and also agreement modifying the purchase money mortgage which later we rewrote into a second proposal for a modification of the mortgage.

Q. Now, were those enclosures attached to this letter of Mr. Robinson? A. They are attached and the note shows that on April 21 the $130,000 to be paid as a principal on the $6 million mortgage.

Q. Now, do you have the papers to which you have just referred? A. I have.

Q. And you are handing me a purchase money promissory note dated April 21, 1961 in the amount of $6 million? A. That is a copy, yes, sir.

Q. Who prepared this? A. Presumably, Mr. Robinson.

Q. You do not claim to have prepared it? A. I did not prepare the note.

(Mr. Doub) Just to complete the record, Your Honor, I will offer it.

(The Court) Was it ever used? What is the use in encumbering the record with papers he did not prepare and which were never put into effect?

(Mr. Doub) Your Honor's logic is irresistible.

By Mr. Doub:

Q. All right, what is the other paper to which you refer? A. That was enclosed as to a modification of the $6 million mortgage.

Q. And you have handed me such a paper entitled "Agreement modifying purchase money mortgage." Did you

participate in the preparation of this draft? A. I did not but I did participate in a redraft of that agreement.

Q. Well, I would like to offer this, Your Honor, although I am not going to read it.

(The Court) Certainly, the papers that he prepared he can tell what he did but what is the use in putting in the preliminary papers that someone else prepared?

(Mr. Doub) I think the Government might like to see the comparison.

(The Clerk) Defendant Johnson exhibit 73 marked in evidence.

(Defendant Johnson exhibit 73 marked in evidence.)

(Mr. Tydings) Just a couple of clarifying questions. That is the draft which was not prepared by Mr. Johnson, is that right, Mr. Doub, what you are introducing?

(Mr. Doub) That is what I understood.

(The Witness) That is correct.

(Mr. Tydings) Does he know who prepared it?

(Mr. Doub) Now, do you know who prepared it?

(The Witness) I do not. I presume Mr. Robinson did.

(Mr. Marion) How many pages are there in that, Mr. Doub?

(Mr. Doub) Six pages.

By Mr. Doub:

Q. Now, what happened next, Mr. Johnson? A. I was asked to review the proposed modification and, as a result of conferences, there was a new draft prepared incorporating some changes.

Q. And did you participate in the preparation of that redraft? A. To the extent of making suggestions in the redraft.

Q. Do you have that redraft before you? A. I have.

Q. Whom did you work with in connection with it? A. Mr. Robinson.

Q. This contains various pencil notations. Is that in your handwriting? A. That is mine. I do not think they are legible now.

(Mr. Doub) I offer it, Your Honor.

(Mr. Tydings) Just a couple of clarifying questions. Does he know approximately when the conferences were held, Mr. Doub, and whether anyone else was present other that Mr. Johnson and Mr. Robinson?

(Mr. Doub) Would you like to answer that, Mr. Johnson?

(The Witness) Which question, first?

(Mr. Doub) Mr. Tydings would like me to ask you about when the conferences were held relating to the redrafting of the proposed agreement modifying the terms of this $6 million mortgage.

(The Witness) The letter was dated April 10, 1961 so I presumed it was a redraft which was following that by some days.

(The Clerk) The last exhibit is Defendant Johnson exhibit 74 in evidence.

(Defendant Johnson exhibit 74 marked in evidence.)

(Mr. Tydings) Did anyone else participate in the conference other than you and Mr. Robinson?

(The Witness) I do not recall whether Mr. Lykes Boykin did or did not.

By Mr. Doub:

Q. Now, what other offer was made by Mr. Robinson in writing about this time? A. April 13, 1961, there was an offer made on behalf of First Continental Mortgage Company which is really a tie-in with the offer made on April 10, 1961.

Q. You mean this second written offer was tied in with the first offer—that one was conditional upon the other one or one could not be consummated without the other, is that what you mean? A. Yes, sir, they were connected.

Q. All right. Now, did you receive a copy of this proposal? A. I did and Mr. Robinson had discussed that with me prior to writing the letter.

(Mr. Doub) I offer it.

(The Clerk) Defendant Johnson exhibit 75 marked in evidence.

(Defendant Johnson Exhibit 75 was marked in evidence.)

(Mr. Williams) What is the date?

(The Clerk) April 12, 1961.

(Mr. Marion) May I interrupt you a moment? The one that went in a moment ago, I notice the photostat you supplied us over the weekend had some writing on it. You have asked the witness whose handwriting was on some of them. I do not think this is his. Rather than confuse the jury, perhaps you can clarify it. They have that No. 73, page four of No. 73.

(Mr. Tydings) Page four on the right hand column.

By Mr. Doub:

Q. I show you Johnson exhibit 73, being a draft of an agreement modifying the term of the $6 million mortgage. Turn to page four which bears some penciled notations. I ask you whether that is in your handwriting? A. No, that is not in my handwriting.

Q. Do you know whose it is? A. I think that is Mr. Robinson's or his secretary. I do not know which.

Q. Johnson exhibits 75 is a copy of a letter dated April 12, 1961, addressed to Boykin, De Francis, Grimes and Smith.

"Gentlemen:

"I am authorized on behalf of my client, First Continental Mortgage Corporation, to make an offer to you as attorneys for Lefcourt Realty Corporation, to purchase all of the outstanding capital stock of Desser & Garfield (Md.), Inc., together with that certain note of approximately $30,000 representing an indebtedness to Lefcourt from the owner of the Charles County Leaf for $150,000. In that connection, I am enclosing herewith a cashier's check in the amount of $150,000 for this purchase. This check is to be held in escrow by you for delivery to Lefcourt, subject to the delivery to you of the documentation set forth in the attachment hereto.

"If your client, Lefcourt Realty Corporation, desires to accept this offer, it may do so at any time between the date of this letter and five o'clock p.m. April 21, 1961. If the offer is not accepted prior to that time, it is automatically withdrawn. Upon the delivery to you of the aforesaid documentation, you are authorized to deliver the enclosed check to Lefcourt Realty Corporation; otherwise, this check is to be returned to me.

"If your firm is willing to accept the escrow obligations indicated herein, it would be appreciated if you would execute this letter in the space provided for below.

"Very truly yours,

"W. L. Robinson."

And it bears this endorsement:

"We hereby accept the conditions imposed upon us as escrow agents in connection with this offer, and agree to abide by the terms thereof.

"Boykin, De Francis, Grimes & Smith

"By Lykes M. Boykin, Partner."

Do you know whether Mr. Lykes Boykin accepted the

escrow agency? A. He did. He also initialed or signed the conditions as having received the conditions attached to the letter.

Q. And the conditions are in a separate memorandum attached to the letter, are they not? A. That is correct.

Q. And when you refer to Lykes Boykin's signature, that is on your copy, too? A. That is Mr. Boykin's signature.

Q. Now, would you explain the attached memorandum which is referred to in a letter as documentation in connection with the purchase of the stock by First Continental—I suppose it had better be read, Your Honor.

(The Court) Then did this transaction go through or was it superseded by something else?

(Mr. Tydings) None of them went through.

(The Court) What is the significance of a transaction that did not go through?

(Mr. Doub) From the point of view of Mr. Johnson's legal services that is what is significant about it.

(The Witness) May I answer the Court about that? It was all superseded because ultimately as an outgrowth there was a transaction involving the sale of stock and the mortgage. This is all prelimination negotiation.

(The Court) Why not read the final one?

(Mr. Doub) Your Honor, we are not interested—

(The Court) He did not prepare this, did he? I did not understand.

(Mr. Doub) He worked on it.

(The Court) I did not understand that he ever said yet that he either worked on it or prepared it. This letter.

By Mr. Doub:

Q. I will ask him. Did you have anything to do with the memorandum attached to the offer of Mr. Robinson? A. I

did. Mr. Robinson consulted with me as to the conditions. I had more conditions which I wanted to incorporate but he did incorporate those which were part of mine.

Q. Some of these conditions were yours. A. Yes.

(Mr. Doub) I would like to read it, Your Honor.

"Documentation Required by Desser and Garfield (Md.), Inc., In Conjunction with the Purchase of its Stock by First Continental Mortgage Corporation.

"1. Delivery by Lefcourt Realty Corporation of all of the capital stock of Desser and Garfield (Md.), Inc., endorsed in blank, together with the original of the note of approximately $30,000 representing an indebtedness to Lefcourt from the owner of the Charles County Leaf, with an assignment of that note executed in blank.

"2. Written resignation of all officers and directors of Desser and Garfield (Md.), Inc., effective as of the date of acceptance of the original offer.

"3. An affidavit from the president of Desser & Garfield (Md.), Inc., that there are no existing or contingent obligations or liabilities of Desser & Garfield (Md.), Inc., save and except that certain mortgage of approximately $6 million to Albert Ernest encumbering the lands in Charles County, Maryland, known as Linda City, and that the stock of Desser & Garfield (Md.), Inc., is not encumbered or pledged in any way whatsoever.

"4. A certified copy of a resolution of the Board of Directors of Lefcourt Realty Corporation authorizing the sale of all of the stock of Desser & Garfield (Md.), Inc., to Continental Mortgage Corporation or its nominee, and in consideration of such approval of the Board of Lefcourt Realty Corporation to cancel any obligations that might exist from Desser and Garfield (Md.), Inc., to Lefcourt Realty Corporation.

"5. Delivery of all books, records and documents of any nature whatsoever relating to Desser and Garfield (Md.), Inc., including evidences of title.

"6. A complete list of all assets of every type and description owned by Desser and Garfield (Md.), Inc., as of April 1, 1961, together with a certification that no assets have been disposed of subsequent to that date.

"7. Certification from a reputable and recognized title attorney or a recognized title insurance company to the effect that the fee simple title to the approximately 7800 acres of land located in Charles County, Maryland, known as Linda City, is vested in Desser and Garfield (Md.), Inc., free and clear of all liens, encumbrances, easements or rights-of-way, except the following:

"a) A mortgage indebtedness of approximately $6 million to Albert Ernest;

"b) A right-of-way through the property known as 'The Window' or 'Entrance' running to Albert Ernest;

"c) An easement to Charles County Sanitary District Commission authorizing that Commission to install sewer and water lines in the center of the road known as Smallwood Drive."

I ask you this, Mr. Johnson: State whether or not you obtained an extension of the acceptance date or dates of these proposals? A. I did, there were negotiations mostly on the telephone between Lykes Boykin, Mr. Robinson and myself and at the expiration there was an extension which I secured.

Q. And that extension was to what date? A. I do not recall now but I think around the 21st, or 20th.

Q. You do not have a copy of anything in writing as to that, I understand? A. The extension was verbal.

* * * * * *

[Tr. 3362-3399]

Q. Is this the $6 million note of April 21, 1961, which was identified a few minutes before? A. Yes.

Q. I think you said you did not prepare this? A. I did not prepare that note. I had to review the note in order to work on the amended modification of the agreement.

Q. Now, you have testified that as to the papers which you worked on and you have also testified that as to certain documents you did not work on them; now, as to those you did not work on, will you state whether or not it was necessary for you to examine them and study them in connection with the work that you did do? A. There were very few I did not work on but those I did not had to be reviewed in order to prepare or work on the subsequent papers.

(Mr. Doub) I offer the note that has been identified by the witness.

(The Clerk) Defendant Johnson exhibit 76 marked in evidence.

(Defendant Johnson exhibit 76 marked in evidence.)

By Mr. Doub:

Q. Now, Mr. Johnson, do you know whether these written offers accompanied by checks to be held in escrow by Mr. Lykes Boykin—do you know whether those offers were accepted or rejected? A. The specific ones that you have in evidence, those were rejected. The checks returned, but soon thereafter with further negotiations in which the checks were accepted.

Q. Now, you have testified that the negotiations for a loan to Desser & Garfield had fallen through and the offers by First Continental Mortgage Company to buy the stock of Desser and Garfield had been rejected in the latter part of April, 1961. What were you then requested to do by Mr. Edlin or by Mr. Robinson? A. The letter of April 19, 1961, I was advised in that, there were interests, outside interests,

I think it was mentioned as New York or Chicago, that were interested in going forward with this development in Southern Maryland near Waldorf, and I was requested to prepare a Maryland incorporation.

Q. And what was the name to be of that company? A. The Charles County Land Company, Inc.

Q. And were you also asked at the same time to incorporate a Virginia company? A. Yes, in negotiations there were some 4,000 acres, at Brooke, Virginia. The interested group were combining the two tracts, the Maryland and Virginia, and I was asked also to provide a charter for the Virginia Company known as Leisure City.

Q. Now, about when were you asked to do that? A. The request for the Maryland Corporation, if I recall, was around April 26, 1961, and about the same time for the Virginia tract.

Q. Now, what did you do upon receipt of those requests? A. Well, the Maryland Company—I immediately telephoned Mr. Harry Adelberg, gave him instructions over the phone that I desired a corporation to be formed immediately. I set forth what the purposes were for the corporation.

Q. You told Mr. Adelberg? A. I also set forth the other provisions as to stock, resident agent, and the required provisions by law for Maryland corporations. And at the same time, I then communicated with Mr. Hunter Andrews of Hampton, Virginia, and asked that he prepare a charter for the Leisure City Land Company.

Q. Now, what did Mr. Edlin and Mr. Robinson tell you as to the proposed ownership of the stock of these two companies? A. I was told that there was a group that Mr. Edlin was spokesman for that were interested in going forward with the development of both the Maryland and Virginia tracts.

Q. Now, what was the status of the Desser & Garfield $6 million mortgage at the end of April, 1961? A. Well, the extensions that we had prepared were to expire on April

30, 1961. There had been, I think, some seven extensions up to that time. So, the mortgage, while not in default, would expire on April 30, 1961 as to its terms of payment.

Q. Did you have any correspondence in May of 1961 with Hunter Andrews, a lawyer in Hampton, Virginia? A. I had both correspondence and telephone calls with him.

Q. Did you receive this letter from Mr. Andrews dated May 9, 1961? A. Yes, but I had previous correspondence and I had telephone calls prior to that.

(Mr. Doub) I offer Mr. Andrews' letter of May 9, 1961, Your Honor.

(The Clerk) Defendant Johnson's exhibit 77 marked in evidence.

(Defendant Johnson exhibit 77 marked in evidence.)

(Mr. Doub) Johnson exhibit 77—a letter dated May 9, 1961, from Hunter B. Andrews:

"Dear Congressman:"

And it says "Re Leisure City Land Corporation."

"As I had informed you last week, the Virginia State Corporation Commission granted a charter to the above corporation on May 2, 1961, and I am enclosing herewith for your records a letter showing the date of incorporation together with stock statement which must be issued before the corporation can commence business.

"We have secured the seal but unfortunately the maker of the seal made an error in the name and we have returned the same to be corrected. It appears, whenever you are in a rush, someone will make an error and I can assure you that they did not carry out our instructions.

"Very truly yours."

By Mr. Doub:

Q. Is this a letter of yours—an office copy of a letter to Mr. Andrews of yours of May 18, 1961? A. It is but, Mr.

Doub, there was prior correspondence in which a memorandum was sent to Mr. Andrews setting forth the capitalization and some other features that were to be incorporated in the charter. If I am not mistaken, I think that I sent him a copy of the Maryland charter showing the purposes for which this corporation had been formed. I am not positive of that but that is my best recollection.

(Mr. Doub) I offer this, Your Honor, the last letter of May 18.

(The Clerk) Defendant Johnson exhibit 78 marked in evidence.

(Defendant Johnson exhibit 78 marked in evidence.)

(Mr. Doub) I will not read it, Your Honor.

By Mr. Doub:

Q. I show you a letter from Mr. Andrews to you of May 22, 1961 and ask you if you received that letter with its enclosure? A. I did.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson exhibit 79 marked in evidence.

(Defendant Johnson Exhibit 79 marked in evidence.)

(Mr. Marion) What was the enclosure, Mr. Doub?

(Mr. Doub) Copy of the charter.

(The Clerk) Articles of Incorporation of Leisure City Land Corporation.

(Mr. Robinson) May we see it, Mr. Doub?

By Mr. Doub:

Q. Now, will you state, Mr. Johnson, whether or not you and Mr. Robinson prepared a letter from yourself to Frank Boykin dated April 29, 1961? A. Mr. Doub, I prepared the letter. Maybe Mr. Robinson made suggestions on it but it

was a letter prepared by me under date of April 29, 1961, after a rough draft beforehand.

Q. Do you have that letter? A. I do.

Q. Is this it? A. Yes.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson exhibit 80. Marked in evidence.

(Defendant Johnson exhibit 80 marked in evidence.)

(Mr. Doub) Johnson's exhibit 80 is on the letterhead of Thomas F. Johnson, dated April 29, 1961, addressed to the Honorable Frank Boykin, Washington Hotel, Washington, D. C. "Re Purchase and Assignment of $6 million Mortgage on Property known as 'Linda City' in Charles County, Maryland."

"Dear Frank:

"I enclosure herewith cashier's check in the sum of $125,000 dated April 25, 1961, payable to Tensaw Land and Timber Company, pursuant to your instructions of an earlier date, together with an assignment from Albert Ernest, Charles County Land Company, Inc., of that certain Charles County Land Company, Inc., of that certain mortgage recorded among the land records of Charles County, Maryland in Liber 41, pages 497 through 545 to be executed by you as an attorney in fact for Albert Ernest, the owner of record of said mortgage and pursuant to its previous authorization, together with agreement of sale for said mortgage between Albert Ernest and Charles County Land Company, Inc.; said agreement to be executed by you as attorney in fact for Albert Ernest, pursuant to the authority previously vested in you by him.

"The above-mentioned check is delivered to you in escrow both individually and as agent for Albert Ernest. And you are to hold said check in your possession until the happening of the following events.

"1. Recording in the land records of Charles County properly executed power of attorney from Albert Ernest to you containing the full authority to execute deeds, mortgages and any and all other contracts requisite to carrying out the full purpose and understanding of the assignment and agreement enclosed herewith.

"2. You are to record said assignment and to deliver to me for the said Charles County Land Company, Inc., a certificate of title certifying that the fee simple title to the land encumbered by said present mortgage are free and clear of all encumbrances, save and except the mortgage heretofore referred to and recorded among the said land records of Charles County, Maryland.

"3. Receipt of a letter from the undersigned to the effect that he has conferred with the necessary agencies and that there are no existing road projects which would interfere with the development of said land and that there are no zoning restrictions or regulations which would prohibit or interefere with the proposed improvements on said land.

"4. The delivery of a letter by you to Charles County Land Company, Inc., stating that you have conferred with the necessary state officials and confirming the acceptance of a lagoon sanitation system for 1500 users upon the property in question.

"5. Consummation of a sale to Leisure City Land Corporation of all those tracts of land known as the Brooke property situate in Stafford County, Virginia.

"Upon compliance with the aforesaid provisions, you are hereby instructed and authorized to deliver to the said Albert Ernest the cashier's check in the sum of $125,000.

"The examination by the Title Insurance Company shall disclose any encumbrances other than the mortgage being purchased or any cloud or lien affecting title

of the property then, in such event the mortgagee is to be allowed a reasonable time in which to eliminate such encumbrances or liens or to clear any such cloud upon the title.

"Provided, however, the mortgagee shall fail or refuse so to do or shall be unable to so perform, then in such event the said check of $125,000 shall be returned to Charles County Land Company and, upon receipt of said check said corporation shall forthwith cause to be reassigned the mortgage to the said Albert Ernest.

"Thanking you for your cooperation in this matter, I am,

"Sincerely yours,

s/"Thomas F. Johnson."

By Mr. Doub:

Q. Now, you wrote that letter to Mr. Boykin upon whose instructions—I should say "prepared and sent it." A. Mr. Edlin who was spokesman for the interest in the Charles County Land.

Q. This contains the following escrow understanding?

"I hereby accept the conditions imposed upon me as escrow agent in connection with this offer, and I agree to abide by the terms thereof and asknowledge receipt of said cashier's check in the amount of $125,000.

s/"Frank Boykin."

Did Mr. Boykin execute that acceptance of the escrow responsibility? A. Well, there was later an assignment of the mortgage pursuant to these negotiations and with the letter as it states there, with agreements and modification provisions of the $6 million mortgage.

Q. Now, there were enclosures with that letter? A. Yes.

Q. Do you have those with you? A. I have the purchase agreement but I do not have copies of the modification of the mortgage.

(Mr. Marion) Mr. Doub, you asked him a question a moment ago and I did not understand whether he answered it as to whether Mr. Boykin executed the escrow agreement at the bottom of that letter. He went on to say that something was assigned but he did not say whether that was accepted by Mr. Boykin.

(The Witness) To answer the question, this was on the 29th of April. There has been testimony that three secretaries worked with Mr. Robinson, and myself in Baltimore. The papers were prepared and sent to Washington. Ultimately there was an assignment of the Ernest mortgage.

(Mr. Marion) He still has not answered the question.

By Mr. Doub:

Q. Are you saying that Mr. Boykin executed the escrow agreement accepting its terms, or you do not know? A. I do not know as to the actual there, but I know the assignment was effective.

Q. You have handed me a paper marked "Purchase Agreement" which is also dated April 29, 1961. Is that one of the enclosures with your letter to Mr. Boykin? A. Yes.

(Mr. Doub) I would like to offer it, Your Honor.

(The Clerk) Defendant Johnson exhibit 81 marked in evidence.

(Defendant Johnson exhibit 81 marked in evidence.)

By Mr. Doub:

Q. Would you summarize the terms of this purchase agreement? A. This is an agreement between Albert Ernest who is the holder of the $6 million mortgage, and the Charles County Land Company under date of April 29, 1961, and it is an agreement whereby the land company agrees to purchase by assignment the $6 million mortgage. In the agreement a discount of the mortgage was agreed upon which would reduce the mortgage to $5,675,000. There was provision made that if this mortgage were paid off within a

certain time, that it could be paid off for that amount. Otherwise, it would revert to the $5,875,000, which would be the figure with the $125,000 that was paid by way of assignment.

Also, it was—there was agreement that the Ernest mortgage which had been originally prepared in 1958 was only for a period I believe of ten years. In this agreement it was stipulated that there would be an extension of the payment plan on the mortgage to 17½ years. And also that attached were six pages of modification of the Ernest mortgage and friefly those modifications called for a 1,060 acres that could be released for immediate development from the Ernest mortgage.

Q. Is it "could be released," or "were released"? A. Would be released. There was also provision that there would be a bridle path, if I recall, eleven feet wide around the entire perimeter of the 8,000-some acres. There were also provisions in the modification as to the timber, as to the rights there of cutting certain of the timber. And other provision in the modification.

Q. Were there any changes in the release clauses of that mortgage? A. Yes, in release clauses there were changes. I don not recall for the moment just what.

Q. Now, what, if anything, did you have to do with the preparation of that form of agreement which you have just summarized? A. My work, and with Mr. Robinson, we were working a loan. My work dealt with the letter to Mr. Boykin with the agreement and the modification agreements.

Mr. Robinson at the time worked, as I recall, on a loan agreement between Charles County and Colony Savings and Loan.

Q. First Colony? A. Yes.

Q. I notice that that draft of a purchase agreement is on the stationery of Mr. Harry Adelberg. Will you explain where you and Mr. Robinson did that work? A. It was

developed, I think, by testimony, that I had the use of Mr. Adelberg's office, his facilities, and frequently on weekends, I took advantage of that offer and on this particular Saturday Mr. Robinson and myself came to Baltimore. Whether Mr. Adelberg was in, I do not know. He may have been but he did not participate, as I recall, in any of the preparation of the papers.

Q. Well, now, is that the Saturday that he referred to in his testimony as obtaining some secretaries to come in and work on an emergency basis? A. Mr. Doub, that was the testimony we had three secretaries working that date at different times, or at the same time.

Q. Now, it is undisputed that Ernest assigned to Charles County Land Company the Ernest mortgage for $6 million and that Frank Boykin received a check for $125,000 on account of the purchase of that mortgage by Charles County Land, and also a check for $125,000 on account of the purchase of the Virginia property by Leisure City Land. Were you present at the meeting when this assignment was agreed to and executed? A. No, I was not present when the checks passed or the papers were signed.

Q. Did you shortly thereafter hear, however, that those papers had been executed? A. I had knowledge soon thereafter.

Q. No, what did you do on May 1, 1961? A. I met with Mr. Robinson on that date and Mr. Edlin. At that time the mortgage was in default. The $5,875,000 mortgage that had been reduced by the payment. I was asked to proceed with foreclosure of that mortgage and whether I would handle the legal work.

Q. You were asked to handle the legal work of Charles County Land? A. Yes, that is for the Charles County Land, in Southern Maryland. So, on the first of May, 1961, I went to La Plata and the first call was at the offices of Mr. De Sales Mudd. I spent—as he testified—some one and a half hours in conference with him. I had been told that Mr.

Mudd was familiar with the property in question. That he had records that would be of assistance to me.

Q. Are you referring to the title records? A. To the title records of the tract in Southern Maryland; Mr. Mudd was very cooperative. He made available his entire file.

I told him I had been asked to proceed with foreclosure of this some $6 million mortgage. I would like to have him assist me in the foreclosure as local attorney in La Plata. Mr. Mudd advised that he had been doing work for Desser & Garfield who were the mortgagors. If I am not mistaken, he had been on a retainer. That he felt there might be some question as to his position if he assisted in the foreclosure.

Ultimately, he decided that he felt that he should not join in the foreclosure. I asked him about the plats to the property, that I wanted to get a complete list of all of the plats so that there could be a composite plat of the 8,000-some acres.

He told me that the county surveyor, a Mr. Steffens, had those plants. He telephoned Mr. Steffens and on May 21, I went over to the Surveyor, found him at his office.

Q. Do you mean—did Mr. Mudd make an appointment for you with Mr. Steffens that afternoon? A. He did but I may say before I went to Mr. Steffens' office, I went over whether there was any local statute dealing with foreclosures as to the cost, the commissions, and other information, whether the mortgagee had copies of the mortgages.

Q. You are talking now of your conversations with Mr. Mudd? A. Yes. I then went over to Mr. Steffens' office following the telephone call that Mr. Mudd made and Mr. Steffens had to use a very large room to get all the plats laid out in the room, because there were so many individual tracts comprising this 8,000 acres.

I spent considerable time with Mr. Steffens, going over the different plats because I wanted to consolidate them and to see whether or not we could work out a perimeter survey of the entire area.

I then stopped by Mr. Carrico's office. That is Mr. Rudlph Carrico. I spent very little time. I told him I would call him on the phone. That I would call him to assist me in a local foreclosure matter.

Then I returned to Washington.

Q. Now, what occurred the following day? A. The following day I had a meeting in my office, that was on May 2, 1961. Present was Mr. Edlin, Mr. Robinson, and Congressman Boykin.

I gave a report on my findings in La Pata, the conference that I had particularly with Mr. Mudd.

Q. Before you get into that, I forgot to ask you, Mr. Johnson, whether you had any discussion in La Plata with Mr. Mudd or Mr. Carrico or both about the standard foreclosure fees in that county? A. There was discussion, yes, and as provided in the mortgage. I found that Charles County, the yhad a straight 6 per cent commission based on the principal indebtedness.

Q. You mean—did Mr. Carrico and Mr. Mudd tell you that? A. It was either one or the other but later, to make sure that there was no dispute, much later, I called Mr. Carrico and he again confirmed it.

Q. Well, now, was he stating what was the general practice in the county? A. The general practice under the rules of practice that they had a straight 6 per cent commission allowed attorneys in foreclosing proceedings.

Q. All right.

Now, would you go on and tell about your meeting with Mr. Boykin, Edlin and Robinson, on May 2? A. At the meeting, I reported what had transpired. They stated, or Mr. Edlin and Mr. Robinson reaffirmed my continuing as foreclosing attorney of the $6 million mortgage.

I told them that it would be a rather substantial cost. It had been brought to my attention that under the recorded mortgage, the Ernest mortgage, the provisions

dealing with commissions and I was referred to Section 20(a) of the Mortgage in which it had a very peculiar provision dealing with commissions, that the general terms in that provision, that in the event of sale there would be, if I may read this provision there.

Q. Yes. A. That the terms of sale—

(Mr. Tydings) Will you identify what he is reading?

(Mr. Doub) From the $6 million mortgage of 1958 with Desser and Garfield—Ernest, is not that correct?

(The Witness) Mr. Doub, I only had a copy of the mortgage at that time. Since then I have secured a certified copy of the Ernest Mortgage in respect to this transaction which I am reading from, the certified file copy by the clerk of the Court.

> That, in the event of sale, the proceeds first to the payment of all expenses incident to such sale including a fee and a commission to the party making the sale of said property equal to the commissions allowed trustees for making sale of the property by virtue of the decree of a court having equity jurisdiction in the State of Maryland.

Second, to the payment of claims, and so on.
Now, the very unusual provision in the next paragraph:

> "And it is further agreed that if the property aforesaid shall be advertised for sale and not sold under the provisions of this mortgage, then the party or parties rightfully so advertising the same shall be entitled to one half of the commissions above provided computed on the amount of the debt secured and remaining unpaid."

In this case there was a debt of approximately $6 million, that if the sale were made and brought the proceeds it would be a commission of $360,000 under the terms of the mortgage and under the provisions as set forth in the last paragraph I read, that in the event the sale was with-

drawn, there would be one half commission. In other words, $180,000, attorney's fees that would be entitled the attorney,that the attorney would be entitled to in the foreclosure proceedings.

By Mr. Doub:

Q. What did you agree with Mr. Edlin and Mr. Robinson would be your fee for handling this foreclosure case? A. Well, at that point we got into rather a full discussion because the parties present were amazed that the costs of foreclosure would amount to any such amount of money. I was asked what would be a reasonable fee for the foreclosure of the mortgage and handling of it, and I told those present that I thought $35,000 or $40,000 would be the normal cost. I was then told that that was still a lot of money.

And the discussion went on as to the amount of work that I had done, that is, the previous months on this matter.

I thought naturally that should be considered, but $35,000 or $40,000 would be a very substantial amount. So agreement was reached where I suggested a fee of $25,000. It was suggested with that fee, I would be paid $10,000 immediately and the balance soon thereafter and at the time they were under negotiation with some New York interest or some other parties, and thought the matter would be closed very shortly.

Q. Was these any reference to the fact that $25,000 was less than one half of 1 per cent of the indebtedness? A. Yes, I brought out in the discussion that $25,000 was less than one half of one per cent of a commission in this transaction.

Q. You mean of the indebtedness? A. Of the indebtedness. As I say, Congressman Boykin was present at the time.

(Mr. Doub) Mr. Tydings, is that mortgage in evidence?

(Mr. Marion) The purchase money mortgage. Mr. Boy-

kin put it in, I think what was Mr. Johnson's copy for identification. No. 10 or 11 of Mr. Boykin's Exhibits for identification.

(The Court) I do not think Mr. Boykin has put anything in evidence yet.

(Mr. Marion) It was offered for identification by Mr. Boykin.

(Mr. Doub) Has the Government put in anything on that mortgage? What is it?

(The Clerk) Defendant Boykin's Exhibit 11 for identification.

(The Witness) Mr. Doub, in further answering I did not collect the $25,000.

By Mr. Doub:

Q. Was anything said as to whether this fee would include all legal work in supervising the title work with respect to both that of the Waldorf property and the Virginia property? A. Yes, sir, in the discussion I think it was Mr. Edlin who was spokesman for the group who stated that it was to include also clearing up title, not only to the Charles County but to Leisure City. That is the tract in Virginia and I was to supervise the legal work dealing with those tracts.

Q. Was there any agreement as to the continuance or discontinuance of the $800 a month retainer which you has been receiving? A. It was as of January, I had had a retainer of $800 a month. And, pursuant to this agreement that retainer discontinued as of April 30, 1961.

Q. What was the date of the last retainer check which you received? A. I received my last retainer check on March 30, 1961, for the month of April.

Q. Now, what, if anything else, did you do that afternoon? A. I told those present that pursuant to the instructions to foreclose this mortgage that I had to comply

with the terms of the mortgage and to give formal notice to the mortgagor and in reviewing the mortgage on page 20, it states as to how that notice will be given, and where it should be sent, which was in California.

Q. Do you have that notice there? A. Pursuant to the mortgage, it is on page 20 of the mortgage, that it was to be in care of Desser and Roe, 444 North Camden Drive, Beverly Hills, California.

(Mr. Doub) This letter is dated May 2, 1961:

Q. Do you have the notice which you prepared and sent? A. I do. On May 2, 1961, I dictated, signed and sent by registered mail notice to the address given, signed it as attorney for the mortgagee.

Q. And that was the notice of default? A. Notice of default.

Q. And is this an office copy of the letter to which you have just referred? A. That is the original office copy.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson exhibit 82 marked in evidence.

(Defendant Johnson exhibit 82 marked in evidence.)

"Desser and Garfield (Md.) Inc.

"C/O Desser and Rau

"444 North Camden Drive

"Beverly Hills, California

"Gentlemen:

"Pursuant to instruction from the mortgagee, this is to advise that as of this date that you are delinquent and in default in the terms of payment of that certain mortgage executed and agreed to by you dated the 27th day of January, 1958 and recorded among the land records of Charles County, Maryland in libre 41,

page 497 thru page 545, which said delinquent payments are in the sum of nine hundred and forty-four thousand dollars ($944,000.00) together with accrued interest thereon and that you are hereby directed to cure said default and to make payment in full of said sum and interest not less than 30 days from this notice; said notice being given pursuant to paragraph 7 of Section A of the above described mortgage and you are further notified that if said default is not cured and said payment not made as herein requested then all sums become due forthwith under said mortgage together with the accrued interest thereon as fully and as completely as if the said aggregate sums were originally stipulated to be paid on the due day after this notice anything in said mortgage or notes secured thereby to the contrary notwithstanding.

"Very truly yours,

"Thomas F. Johnson

"Attorney for Mortgagee."

By Mr. Doub:

Q. Now, what did you do the next day about sending a second notice of default? A. Following that notice, I reviewed again the mortgage. I probably was over cautious of the tremendous amount involved and in reading my notice, I was concerned whether or not it was as clear and whether it did comply with the terms of the mortgage. I particularly was concerned with the wording of the 30 days notice, whether it should not have been 31, 30 full days. I telephoned Mr. Adelberg and told him of the foreclosure proceedings I had had some time previous, a case that I thought was on the point, would he review the law for me. I would call him back or he would call me.

I called Mr. Adelberg. We had conferences. He agreed with me that there should be a rewording of the notice; so, on May 3, I dictated, prepared and dictated another notice together with accompanying letter.

Q. You used the word "we had conferences." You did not have any conferences? A. By telephone.

(Mr. Doub: I offer the second notice of default, May 3, 1961, with Mr. Johnson's covering letter.

(The Clerk) Defendant Johnson's Exhibit 83 marked in evidence.

(Defendant Johnson Exhibit 83 marked in evidence.)

(Mr. Doub) I will only read your covering letter dated May 3, 1961.

"Desser & Garfield.

"Gentlemen:

"In rereading my notice mailed under yesterday's date, I felt there might possibly be some mis-interpretation as to the intentions of the mortgagee to accelerate the indebtedness and I am issuing a second notice which I feel is perhaps clearer and more specific.

"In regard to the two notices, you are advised that you may consider the second notice herewith enclosed as governing the period of time as provided in paragraph 7, Section A of the Mortgage securing the payment of your indebtedness.

"Very truly yours."

By Mr. Doub:

Q. Now, did you make another visit to La Plata in May, 1961? A. I did. I made several visits to La Plata during June, 1961.

Q. I said in May? A. I do not recall in May. I may or may not. I think I was there on the 19th.

Q. But you are not certain? A. I am not certain.

Q. Now, how about in June? A. Yes, I was in La Plata on several occasions in June.

Q. Who was with you? A. I think Mr. Robinson was with me on most of the occasions. Possibly he was not there on all of them but I know he was there.

Q. Wait a minute. We are only talking about one or two.

(Mr. Marion) Are we, or aren't we?

(The Court) It is the witness who is testifying not you. Unless you want to be sworn. The witness has said.

(Mr. Doub) I think my witness is getting tired, Your Honor.

(The Witness) I think I was there on June 5 and June 8. There is a possibility I was there on another occasion.

By Mr. Doub:

Q. Whom did you see when you were there? A. I saw Mr. Mudd, that is, Mr. De Sales Mudd, and also Mr. Carrico, and on one of the occasions, I visited the Clerk's office in La Plata.

Q. What did you do there? A. The purpose was to see the plats that were recorded with this foreclosure. I was concerned as to the water rights on the 97 acres which Desser & Garfield had in fee and I wanted to make sure that the easements ran to the property under the foreclosure proceedings.

So, the purpose was to review the maps at the clerk's office; the plats had been recorded.

Q. Well, now what was the next step as to the foreclosure of the mortgage with specific reference to the form of advertisement? A. Mr. Carrico, I asked Mr. Carrico to assist me, personally, in La Plata on this foreclosure. We had had telephone conversations during this period, several. I told him to prepare a copy of the advertisements and to send me such a copy.

Q. Now, did Mr. Carrico prepare a draft of the form of advertisement of the public sale of this property? A. Yes.

Q. Did he send that to you? A. He either sent to to me or it came to my office. I do not recall which, but I received a copy of his draft.

Q. I think you testified that he met with you in your office? A. Possibly so.

Q. On one occasion? A. He could have.

Q. Well, now, I show you Johnson Exhibit 31, 32; the first Mr. Carrico identified as his draft that he prepared of the form of advertisement and the second as I think, after changes had been made by you. Will you tell the jury what changes you made in his form? A. Well, first I suggested and it was changed, the first page dealing with the description. That was all rearranged.

Second, he had the date of July 11, and I changed that to July 10, also, he had no provisions as to taxes or terms of sale.

Q. You mean terms of payment? A. No, no, as to adjustment of any purchaser as to adjustment on county and state taxes.

And I notice in my handwriting, I changed that there should be an adjustment on day of sale of all county and state taxes. Also as to terms of sale. I suggested, and there was a change as to the terms of sale.

Q. Now, I would like to direct your attention to the problem that arose as to the amount of the required bond in connection with this foreclosure sale. What did Mr. Carrico tell you would be the required amount of the bond? A. He told me in his telephone conversation to me, that they would require a $6 million bond. That was a bond, a corporate bond to be filed in the proceeding.

I asked him what the costs would be on a $6 million bond?

He told me $24,000 premium.

I told Mr. Carrico that I thought he should take it up

with the Court because such a bond in my opinion, was not necessary.

I talked with him again on the telephone some days following. He told me that he had taken it up with the Court and the Court had requested the $6 million bond.

We had more conversations over the phone. I told Mr. Carrico to please go back to the Court, that my experience in foreclosing of mortgages was that it is entirely at the discretion of the Judge as to the amount of the bond, that in our case there was very little likelihood that there would be any outside purchasers, no risk on a bond. That certainly with unimproved property, and I mentioned, Judge Digges, who was the Local Judge, should not require any such bond, $6 million bond.

In the meantime, I wrote to a company in Chicago, getting a price on a bond or what their premium would be in event that Judge Digges would insist on the $6 million bond.

Following my conversation, Mr. Carrico reported to me he did go back to see Judge Digges. Judge Digges reconsidered, reduced the bond from $6 million to $600,000, a reduction in premium from $24,000 to $2400 for the bond.

Q. What happened next with respect to the bond premium, did you take exception to the $2400 later? A. When the property was withdrawn later by virtue of settlement on the day sale, I got a statement from Mr. Carrico because, under the arrangements, all bills were to come to me.

He sent a statement for $2400. I called Mr. Carrico and told him the property had not been sold, that I felt that there should be further reduction in the bond, and, as a result, he communicated with the bonding company which was the U.S.F. & G., and was able to reduce it from $2400 to $1200 for the bond premium.

Q. Now, returning to June, 1961, prior to the date of the foreclosure sale which was scheduled for July 10, 1961,

what did you do with respect to a tax matter? A. I went into that but I do have before me a copy of letter to the company in Chicago because I was disturbed about the $2400 premium which Judge Digges originally requested.

Q. And is this your letter to S. M. Simon & Company dated 5, 1961? A. That is copy of a letter addressed to me.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson Exhibit 84 marked in evidence.

(Defendant Johnson Exhibit 84 marked in evidence.)

(Mr. Marion) Mr. Doub, Congressman Johnson was referring to a couple of other papers up there a while ago when he mentioned some dates in June. I wonder if we might have those marked also for identification?

This may be one of them, I am not sure.

(Mr. Doub) Is there another letter there on this same subject?

(Mr. Marion) You referred to two dates in June that you say you were in La Plata and I think you referred to something in your file and I just wondered whether you could set that aside.

(The Witness) I do not believe I had anything in my file on that, no.

May I say that I checked with Mr. Mudd's diary while I was there and some others.

By Mr. Doub:

Q. Let us return to June prior to the foreclosure sale, did you have any occasion to work on a tax matter relating to this? A. I did.

Q. To this sale? A. I did considerable work and research as to a tax problem that could be presented by this foreclosure. It was most likely that the property would have to be bid in by Charles County Land at the sale.

The result of that was it resolved itself into whether or not if they were the bidders that the government would state that there was a sale and therefore, a tax liability either on the mortgagor or possibly on the mortgagee.

I came to Baltimore and worked on that in the office in Baltimore. There was a young man who had been with Internal Revenue Service that Mr. Robinson, himself worked with one day here. We made a search of the Maryland law. As a result of our conferences with this tax man and with the review of the Maryland law, we concluded that the proceedings or I concluded that the proceedings should be in rem rather than in personam, meaning that we should proceed on the mortgage. That the note for the $5,875,000 should be held by the mortgage-holder, and that if a new mortgage were given, that would be as security to the old note, that the note had no personal guarantee.

It was a note without any personal liability. Therefore, no one could be hurt.

Q. By not extinguishing the note? A. That the debt would not be extinguished. Therefore, there would be no tax difficulty.

So, pursuant to that, I did not file the note. I had the note kept at the First Continental Saving and Loan office.

Q. And do you have the long distance telephone bills of the C & P Telephone Company for the month of June, 1961? A. I do.

Q. Is this it? You are handing it to me? A. Yes.

(Mr. Doub) I would like to offer this, Your Honor, dated June 30, 1961.

(The Court) Is there objection?

(Mr. Tydings) Is this the same type of bill which has been offered before? In other words, the calls charged to the Congressman's Congressional office?

(Mr. Doub) Yes.

(The Clerk) Defendant Johnson's Exhibit 85 marked in evidence.

(Defendant Johnson Exhibit 85 marked in evidence.)

(Mr. Tydings) Let us take a look at it.

By Mr. Doub:

Q. How many telephone calls are recorded on the long distance telephone bills of the telephone company in the month of June from you to Mr. Carrico and Mr. Mudd in that month?

(Mr. Tydings) Your Honor, I am going to have to object to the form of the question. I think you are going to have to prepare a foundation by asking Mr. Johnson whether or not he made every telephone call which appears on there first. Because there has been a lot of testimony about other people using the Congressional office during this period of time.

I object to the form of that question as asked.

(The Court) Well, if he remembers whether he did. If he remembers how many calls he made.

(Mr. Doub) He could not possibly remember such a thing, Your Honor.

(The Court) If he does not, the document speaks for itself. Unless it refreshes his recollection.

(Mr. Doub) That is what I am asking him about. How many calls are recorded on there from his office to Mr. Mudd or Mr. Carrico?

(The Court) That was not what you asked. If you ask the question that way, it meets Mr. Tydings objection. If you amend it to "the office," Mr. Tyding' objection is met.

By Mr. Doub:

Q. How many calls are recorded on there from your office

to Mr. Mudd and Mr. Carrico during the month of June, 1961? A. First of all, during the month of June, 1961, my statement for the month shows that Johnson, being myself, the person calling made nine calls to La Plata, to either Mr. Carrico or Mr. Mudd.

* * * * * *

[Tr. 3400-3416] By Mr. Doub:

Q. Mr. Johnson, I neglected to have you identify this letter which I am now handing you? A. Yes, sir.

Q. Did you receive that letter? A. I did. That is a letter from the executive vice president of the First Continental Savings and Loan in which they acknowledge as holding the $5,959 note of the D&R which is Desser and Garfield.

I have previously testified that the idea was not to extinguish the indebtedness under the note but to proceed in rem rather than in personam.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson's Exhibit 86 marked in evidence.

(Defendant Johnson Exhibit 86 marked in evidence.)

(Mr. Doub) Dated May 5, 1961 addressed to Thomas F. Johnson, Attorney at Law, Berlin, Maryland.

"Dear Mr. Johnson:

"This will acknowledge there is being held at your request on deposit certain promissory note in the principal amount of $5,959,000 dated March 31, 1959, and executed by D.G. & R., Inc., by Arthur Desser, its president, and attested by its assistant secretary.

"Said note will be delivered to you at your request.

"Sincerely,

/s/ "Earl Kunkel,
"Executive Vice President."

By Mr. Doub:

Q. Now, Mr. Johnson, when Mr. Desser heard that a mortgage foreclosure sale was scheduled for July 10, 1961, what did he do? A. He communicated with Mr. Lykes Boykin at the time representing Desser & Garfield and made a very strong protest to the foreclosure.

Q. Did there then ensue any discussion with respect to a settlement with Desser & Garfield? A. Yes, sir.

A discussion that first Mr. Desser wanted to proceed on to develop the property. Mr. Lykes Boykin revealed the amount of money that had been spent on the development by Desser & Garfield, which involved several hundreds of thousands of dollars. And negotiations continued in an effort to reach some settlement with Desser & Garfield.

Q. Now, during the week preceding the July 10 date, the date of the sale, were those discussions continuing with respect to a settlement? A. They were and my discussions with—my discussions were with Mr. Boykin.

Q. And what was he demanding as in settlement? A. Mr. Lykes Boykin?

Q. On behalf of Desser & Garfield. A. Mr. Lykes Boykin advised me that he had instructions from his client that if they desired to purchase the Desser and Garfield stock which carried with it legal title to the 97 acres known as the "Window" together with the note which was owned by Lefcourt of the Charles County Leaf which is a newspaper, of $33,000 that they must have $250,000 by way of settlement.

Q. What did Mr. Desser and Mr. Lykes Boykin claim had been spent by Desser & Garfield, could you give us any breakdown on the figures as to that? A. Yes, that was discussed.

And Desser & Garfield, as I stated, owned in fee the 97 acres which was referred to as "the window" which abuts on route 301 in Southern Maryland.

Q. So that would not be subject to the mortgage foreclosure proceedings? A. That was not a part to that, not part of the mortgage procedure but presented a real problem because the remainder of the property—some 8700 or 7900 acres were on the back or to the back of "The Window" and Mr. Desser through Mr. Lykes Boykin, stated they had paid down—Desser & Garfield, $100,000 at the time that they negotiated the purchase of the property, they had also paid $105,000 for the release of the 97 acres. They had paid some interest charges amounting to approximately $60,000 and that the engineering cost as well as certain promotional ran in excess of $200,000. As a result, they had an estimated half a million dollar investment in the 97 acres.

Q. Will you state whether or not they claimed there was grading and some roads built?

(Mr. Tydings) Mr. Doub, is it my understanding that all of these conversations were made in Mr. Johnson's presence at a conference which Mr. Johnson attended between Mr. Lykes Boykin and himself?

(Mr. Doub) He did not say he was at every conference but he has testified what he has said.

(Mr. Tydings) We are not objecting but we would like to get a little bit clear who was present at these conferences and who was representing whom.

(Mr. Doub) All right.

By Mr. Doub:

Q. Mr. Johnson, will you proceed to answer that question? A. Part of the information came from Mr. Desser, himself, although Mr. Desser was at very few meetings. He had an associate in his office, I do not recall his name, who sat in on one or two meetings. For the most part, it was through Mr. Lykes Boykin and they were at several conferences that this information was given me when I was personally present at these conferences.

(Mr. Tydings) Was anyone else present?

(Mr. Doub) You can ask all this on cross examination, Mr. Tydings.

By Mr. Doub:

Q. Now, what happened on the morning of July 10? A. I received a call about 8 o'clock in the morning that there was a meeting at the Washington Hotel and that is the hotel where Congressman Boykin lives.

I arrived presumably at 8:30 or 9 o'clock.

Q. It was a breakfast meeting? A. It started with a breakfast meeting.

Q. Who was present? A. Mr. Lykes Boykin, Mr. Edlin, Mr. Robinson, and myself.

Q. How about Mr. Frank Boykin? A. I say, Congressman Boykin.

Q. He was present? A. Yes.

Q. How long did this meeting last that day? A. That meeting continued through the morning and whether it went in the afternoon, I do not know but the property was scheduled for sale at twelve noon on July 10th, which was the date of the meeting.

Q. Now, Mr. Carrico testified that at ten minutes after the noon hour, he received word from you of a settlement. Will you tell the jury what the settlement was? A. Well, negotiations were back and forth because Mr. Lykes Boykin had instructions that there must be $250,000.

Q. Dollars paid to Desser & Garfield? A. Paid in settlement of the Desser & Garfield interest. On the other hand, there was representation through Mr. Edlin that his group did not wish to go above $225,000. So the difference was the $25,000. Several times during the morning it looked like there was a meeting of the mind and they had reached an agreement. I would contact Mr. Carrico and tell him

that the sale would be off. Then after further discussion, it would resolve itself that on certain terms of the agreement there was difficulty reaching an accord on those. I would call back Mr. Carrico and tell him the sale was on. Finally, at noon on July 10th, I telephoned Mr. Carrico to withdraw the sale, because a settlement had been reached.

Q. At what figure? A. $225,000.

Q. And did that include the sale of "the window" to Charles County Land? A. It included the sale.

Q. Which was not subject to the mortgage? A. It did. And many other things.

Q. Now, after that agreement was reached on July 10, what did you and Lykes Boykin and Mr. Robinson do? A. Well, there were so many conditions attached to the $225,000 payment that we had numerous meetings throughout the week and even going over to the following weekend and ultimately on July 14 we resolved it in writing.

Q. Do you have there a letter from Mr. Robinson to you? A. I do.

Under date of July 14, 1961.

Q. Did you receive that letter? A. I did.

(Mr. Doub) I wish to offer it, Your Honor.

(The Clerk) Defendant Johnson's Exhibit 87 marked in evidence.

(Defendant Johnson Exhibit 87 marked in evidence.)

(Mr. Doub) It is a letter on the letterhead of W. L. Robinson, attorney-at-law, dated July 14, 1961 addressed to Mr. Johnson.

"Dear Tom:

"I deliver to you herewith, as attorney for Charles County Land Company, Inc., the check of First Continental Savings and Loan Association, Inc., in the sum of $225,000,

payable to Boykin & De Francis, which sum represents moneys being loaned by the said Association to Charles County Land Company, Inc.

"You are hereby authorized to deliver said check to Boykin & De Francis, subject to the following terms and conditions:

" The receipt by you of the following:

"a. Warranty deed to approximately 97 acres of land at Waldorf, Maryland.

"b. Quitclaim deed to the approximately seven thousand eight hundred remaining acres;

"c. Assignment of notes in the amount of $33,000.

"d. Mutual releases by Charles County Land Company, Inc., and its agents and representatives, and Desser & Garfield (Md.), Inc., and its representatives.

"2. The title opinion from De Sales Mudd stating that at the time of the recording of said deeds title to the lands conveyed in said deeds was vested in Charles County Land Company, Inc., subject only to those encumbrances set forth in the letter of opinion of De Sales Mudd, dated July 13, 1961, and effective as of July 12, 1961, at 4:30 p.m.

"3. Satisfactory evidence of the payment in full of any sums becoming due for the following engineering drawings, plans and specifications:

"a. Storm drainage plans and profiles Section 1, street plans and profiles Sec. 1, drainage ditch and set of record plats Sec. 1, all prepared by Whitman, Requardt & Associates.

"b. Sanitary sewer and water main plans and profiles Sec. 1, and outfall sewer plans and profiles prepared by Williams.

"c. One hundred foot scale topography for 3,000 acres, and two hundred foot scale topography for 7,700 acres (partial) prepared by Alster;

"d. Plats of property and plat of ground released by D. G. & R. Inc., prepared by D. H. Steffens;

"3. Various miscellaneous sketches or drawings.

"4. Master plan prepared by Bartholomew, together with payment or satisfaction of the $15,000 claim of Bartholomew, or escrow of $15,000 to guarantee the payment of said sum in the event that liability therefor shall be adjudicated against D. G. & R., Inc., or Lefcourt and in favor of Bartholomew.

"5. Satisfactory evidence that the $33,000 promissory note is the sole obligation from Southern Maryland Publishing Company, Inc., to Lefcourt, D. G. & R. Inc., or their officers, stockholders or employees.

"6. Assignment of any right, title or interest and any and all rights accruing under a certain agreement between Desser Corporation and Charles County Sanitation Commission.

"7. Assignment of any FHA commitments having to do with Linda City and issued to Desser Corporation, together with a waiver by Desser Corporation to any commitment or any rights under such commitment issued to Desser Corporation and having to do with any of the lands known as Linda City.

"Upon compliance with the foregoing conditions, you are, as above stated, authorized to deliver the aforesaid check to Boykin & De Francis.

"Sincerely yours,

/s/ "W. L. Robinson."

By Mr. Doub:

Q. Now, at the end of that letter I notice something signed by you dated July 15, 1961. I ask you if that is in your handwriting and will you read it to the jury? A. It was, and what it is, Mr. Robinson, when I received this

wanted an acknowledgment that I had received the check, so I said:

"Check for $225,000 to be delivered to Boykin attorney, by recording of documents, with title approved for 7,800 acres in question by confirmation of prior opinion. After recording of documents conveying title of said land to Charles County Land Company said opinion by De Sales Mudd, Attorney and escrow for payment or settlement of Bartholomew claim. The other items herein set forth have been satisfactorily approved by the undersigned.

"Thomas F. Johnson, Attorney.

"Dated July 15, 1961."

Q. Now, after receipt of that letter which refers to various conditions, what did you do, Mr. Johnson? A. Well, it involved a considerable amount of work and I took item by item, first was the warranty fees for the 97 acres to approve that that was in form prescribed by our Maryland law and over my signature or initials I said "Approve—T.F.J."

Q. On the margin of the letter? A. On the margin of the letter. And this was written at the time that I approved the bid.

The next dealt with quit claim bid to the remainder of the property, the 7,800 acres. And I also approved that as to form and in compliance with the Maryland requirements.

The next was the assignment of notes in the amount of $33,000. That was tied in with the item 5 in which there was to be satisfactory evidence that the $33,000 promissory note is the sole obligation from the Southern Maryland Publishing Company to Lefcourt. What had happened that that involved a newspaper in Southern Maryland, I think called Charles County Leaf, and Lefcourt had a note of $33,000 which had been treated as ownership of this newspaper.

In order to clear the understanding, I got in touch with a Mr. Brown who presumably was Southern Maryland Publishing Company, and my marginal notes show that that was approved—"Letter from Brown." So, I presume Mr. Brown confirmed that that note was recognized as the obligation due and owing by the publishing company and constituted ownership of the paper.

Next were mutual releases by Charles County Land and its agents. Those releases were given to me which I approved.

The second item was the title opinion from De Sales Mudd and I got in touch with Mr. Mudd, told him as to the settlement that had been effected that I would require a written letter or a letter from him setting forth that there was good title in the Charles County Company by virtue of its settlement of this claim, the warranty deed and the quit claim deed.

And on July 17, 1961, Mr. Mudd did address a very detailed letter covering his examination and title approval.

Q. That letter is already in evidence, is it not? A. I do not know whether it is or is not.

(Mr. Doub) Will you give me that and I will ask the clerk if she might be checking that. I think it is.

(The Witness) Then another item which gave great concern was the plans. There had been a room filled with—

(The Court) Defendant Johnson exhibit 36—letter of July 17, Mudd's letter.

By Mr. Doub:

Q. In any event, without continuing on as to those conditions, you verified each of the required conditions before you made delivery of that check? A. I may say, Mr. Doub, I did and there were many conditions, many conferences and work in order to satisfy the conditions set forth in this letter.

Q. What period of time did you consume with respect to them? A. My recollection is that it was impossible to conclude the conditions until, I think it was July 20, if I am not mistaken, of 1961.

Q. Now, is that the date on which the Charles County Land obtained title to this 8,000-odd acres from Desser & Garfield? A. Not the 8,000. They obtained title to the 97 in fee. They had a quit claim deed for the remainder.

Q. They obtained a quit claim? A. Subject to the outstanding mortgage.

Q. Now, on July 20, 1961, the papers were executed implementing this settlement, is that not correct? A. That is correct.

Q. And at the same time was there a new mortgage executed, or was there a modification agreement of the terms of the mortgage? A. As I recall, there was modification to many of the provisions of the mortgage.

Q. Well, did you do any work on that amendment? A. I worked with Mr. Robinson as to the modifications. They were very detailed and involved.

Q. Could you summarize briefly the mortgage amendments? A. First, the release, I am doing it now from my best recollection. The release clause called for 1,060 acres that would be released by the mortgage to Charles County for development.

In addition, there would be an eleven-foot bridal path around the entire perimeter of the 8,000 acre tract. In addition, there was modification as to the timber rights, gravel, the use of gravel during the construction period, extension of the mortgage, which went for the seventeen years.

Q. Let me ask you this: Did a problem arise here as to a merger of interest and if so what, if anything, did you do about it? A. Yes, at the closing of the equity proceedings in Charles County, I instructed Mr. Carrico to

reassign the mortgage to the Charles County Land Company, and over the phone I mentioned the possibility of a merger of interest. Mr. Carrico ventured an opinion that he thought there was a merger, whether he should look into it. I said, no, I will pursue the legal aspects of that.

So I did make a rather extensive research of merger of interest because under our general practice equitable interest and legal interest merges into the legal interest. In this case, Charles County Land had the legal entitlement now in reassignment of the equitable interest of the mortgage.

After research of the authorities I found that it depended on the intention of the parties whether there was a merger, whether the merger took place at the same time with the same parties, but from the records, my search revealed that there was no merger of interest, and I so advised the parties, Mr. Robinson and Mr. Edlin and the others.

Q. Now, as of July 20, 1961, then Charles County Land Company had become the owner of this whole property, subject to a mortgage of, I believe, $5,875,000, wasn't it. A. Approximately, exclusive of interest.

* * * * * *

[TR 3419-3421]

Q. I show you a legal document entitled "Amendment to Purchase Money Mortgage," which is certified by the Circuit Court of Charles County, dated July 20, 1961, and ask you if that is the agreement modifying the terms of that Ernest mortgage?

(The Court) Is it the Ernest mortgage, or is it the mortgage that Charles County now owns?

(The Witness) May I explain to the Court what it is.

If Your Honor please, the mortgage continued to Ernest on the entire—the mortgage obligation continued to Mr. Ernest. In the settlement there was only modification of

that mortgage extending the terms or the provisions, but Albert Ernest continued to hold a first mortgage on the 7,800 acres, less 1,060, which was in a release clause.

(The Court) Wasn't there some testimony or some paper offered indicating that the mortgage had been assigned to Charles County Land Company? I don't understand what your problem was about merger. If Charles County Land Company didn't own the mortgage—

(The Witness) Charles County did own the mortgage because it was assigned over for foreclosure and then reassigned to Charles County.

By Mr. Doub:

Q. You mean reassigned to Ernest after the settlement?

(The Court) Mr. Doub, he is trying to explain it. If you want to explain it, I will be glad to hear it from you. If he wants to explain it as a witness, let him explain it. I would have thought there were some papers that contain the transaction.

(The Witness) It is not that complicated. Charles County Land had title by deed to the land, a quit claim deed, subject to the existing mortgage. When the foreclosure was assigned, the mortgage was assigned over for foreclosure.

(The Court) By whom to whom?

(The Witness) It was assigned from Charles County, who had purchased the mortgage previously from Albert Ernest. Then it was assigned over to Carrico for foreclosure. Then he reassigned it back to Charles County Land. Then Charles County Land worked out on July 10th a modification agreement of the original mortgage so the original mortgage still continued in existence.

(The Court) Running to whom?

(The Witness) To Albert Ernest.

(The Court) Well, then you said a moment ago, I thought, that Charles County Land Company had purchased the mortgage from Ernest.

(The Witness) Yes.

(The Court) Now, did they purchase it or didn't they? If they purchased it, I would have thought they owned it. If they had purchased it and owned it, how did it still run to Ernest?

(The Witness) Yes. It was purchased for the $125,000, subject to an agreement on modification of the terms. At that time it was to be a substituted mortgage for the original mortgage. Then in the ultimate conclusion after the foreclosure was withdrawn, Charles County then worked out with Albert Ernest reassignment back to Albert Ernest of the mortgage with the modification agreement, so that they had the mortgage originally with the modification agreement, but at one juncture Charles County had both the mortgage assigned to them and had the legal title.

* * * * * *

[TR 3424-3429]

Q. Mr. Johnson, I do not propose to have you review the correspondence you had with Mr. Mudd, which Mr. Mudd testified to. I will hand you Johnson's Exhibits 35, 36, 37, 38, and 39, and ask you if the letters that are contained there addressed to you from Mr. Mudd were received, and the letters you wrote him were sent by you, and there are several letters, I believe, between Mr. Mudd and Mr. Robinson, and I ask you whther you received copies of them? A. I only see one letter to Mr. Robinson. The others were addressed to me, with the exception of one, which is a letter I had to Mr. Mudd, and these dealt with the transaction.

(The Court) They have all been read to the jury.

(Mr. Doub) That is right, and they will not be read again.

(The Court) I don't see that there is any need to read them again.

(Mr. Doub) No, Your Honor. We don't propose to.

By Mr. Doub:

Q. Now, did you make a trip to Fredericksburg at any time to see Mr. Ashby? A. I did. I was also there to visit the land prior thereto, the Leisure City property.

Q. And what was the purpose for that trip to Fredericksburg? A. Well, prior to Fredericksburg I made a visit to view the Leisure City land, particularly the proposed area for a marina, and it was to ascertain what agencies had to be contacted to get approval for the work that was contemplated on the marina.

Q. Who accompanied you there? A. I believe Congressman Boykin was with me. Whether anyone else, I do not recall.

Q. Now, do you recall making a trip to Stafford, Virginia, in connection with the Brooke, Virginia, property? A. Yes, sir, I was at Stafford, I think, on June 9, 1961, for a meeting with Mr. Frank Moncure, who is an attorney in Stafford. He was handling what we called the Brown tract.

Q. Now, I show you a letter from Mr. Ashby to you, which is in evidence as Defendant Johnson's Exhibit No. 20, dated May 18, 1961, reporting on some of this title problem with respect to this property and ask you if you received that? A. I did, but we had other work with Mr. Frank Moncure, of Stafford, too.

Q. Well, will yo utell the jury about it? A. At the time that Leisure City was acquired, the tract known as the Brown tract, which had approximately 140 some acres, was to be included with the other tracts in the Leisure City area. Presumably Leisure City thought they had title to the Brown Tract. That was the understanding. But I received word there was no title of record in the name of—

I don't know whether the Washington Turpentine or Tensaw or who it was, so my purpose was to discuss with Mr. Frank Moncure, who had been handling the Brown tract, as I understood, under a deed of trust or foreclosure, and with Congressman Boykin I went to see Mr. Frank Moncure.

We had a discussion as to how best to clear title. I told him that I wanted a title report, which was later sent me on the property.

Q. Now, did you receive letters contained in Johnson's Exhibit 22, 23, 24, 25, 26 and 27? A. I did, and you asked me about Defendant's Exhibit 20. That is a very long letter from Mr. Ashby in respect to the work they would do on the title, the purpose of which was to secure insurance coverage of $850,000 on the Leisure City land.

(The Court) Those letters, I believe, were offered in evidence, and all or part of them were read to the jury when Mr. Ashby was on the stand.

(Mr. Doub) Yes.

Here is one, however, from Mr. Johnson to Mr. Mudd, on July 21, 1961, which I don't believe is in evidence, Your Honor.

(The Court) What date?

(Mr. Doub) July 21, 1961.

(The Court) A Mudd transaction?

(Mr. Doub) It is from Johnson to Mudd.

(The Court) I was looking at the Ashby one.

(Mr. Doub) I will come back to that.

(The Court) 21 July, 1961, Johnson to Mudd, Defendant Johnson's Exhibit 38. It is the same letter. There is such a letter in evidence.

(Mr. Doub) Very well, Your Honor. I am not going to put it in again.

(The Court) It may be a different letter. This one deals with getting a copy of the report of the Lawyers Title Company. Is that the one?

(Mr. Doub) Yes, Your Honor.

By Mr. Doub:

Q. As to your correspondence with the Virginia lawyers, I ask you if you received this letter from Mr. Ingram, dated June 22, 1961, which is not in evidence? A. I did.

(Mr. Doub) I offer it in evidence, Your Honor.

(The Clerk) Defendant Johnson's Exhibit No. 88, marked in evidence.

(Defendant Johnson's Exhibit No. 88 marked in evidence.)

Mr. Doub: (Reading)

"Dear Congressman Johnson:

"I am writing this letter to advise you that all of the information pertaining to the Gus Brown property and the Temptation Farms tract consisting of 620 acres, more or less, has been turned over to C. B. Malcolm & Son, State Certified Engineers, with the request that they estimate the costs of incorporating the same on the composite map prepared for Tensaw Land and Timber Company, Incorporated, dated March 1953. Because of other commitments, Malcolm has been unable to give attention to this matter until very recently. I expect to hear from him momentarily, at which time I will again communicate with you.

"Very truly yours,

"J. Wilson Ingram."

"cc: The Honorable Frank W. Boykin

James Ashby, Jr., Esq.

J. M. H. Willis, Esq."

By Mr. Doub:

Q. Now, I ask you if you received a letter from Mr. Ingram, dated July 30, 1961, which is not in evidence? A. Yes, I was sent a copy of this.

Q. You received a copy of this letter from Mr. Ashby. Wait a minute, I think there are two letters here, from Mr. Ingram to Mr. Ashby of June 30, 1961. I offer it.

(The Clerk) Defendant Johnson's Exhibit No. 89, marked in evidence.

(Defendant Johnson's Exhibit No. 89 was marked in evidence.)

* * * * * *

[TR 3430-3455]

By Mr. Doub:

Q. Mr. Johnson, I am going to ask you to identify some additional correspondence with the Virginia lawyers with respect to the Brooke, Virginia property indicated which have not been admitted in evidence before. I show you what purports to be an office copy of a letter of yours to J. Wilson Ingram, Roanoke, Virginia, June 28, 1961 with a copy to Mr. Frank Boykin. Did you write that letter? A. I did.

Q. And there in that letter you sought what from him? A. I was very anxious to get a perimeter survey of the Leisure City land and I merely requested the perimiter survey at the earliest possible date.

(Mr. Doub) I offer this in evidence.

(The Clerk) Defendant Johnson's exhibit 90 marked in evidence.

(Defendant Johnson exhibit 90 marked in evidence.)

By Mr. Doub:

Q. I show you what purports to be an office copy of another letter from you to Mr. Ingram of July 21, 1961

and ask if you— if that is a copy of such a letter which you wrote? A. It is and it is again to request the perimeter survey which I had requested in a previous communication.

(Mr. Doub) I offer it in evidence.

(The Clerk) Defendant Johnson exhibit 91 marked in evidence.

(Defendant Johnson exhibit 91 marked in evidence.)

(Mr. Doub) That is a letter dated July 21, 1961.

By Mr. Doub:

Q. Now, I show you a copy of a letter from Mr. Ingram to Mr. Malcolm dated July 25, 1961, with a copy to you, and ask if you received a copy of that letter? A. I did. Mr. Ingram was endeavoring—

(The Court) I thought you were going to put in a bunch. Show him all of them and they can be found one after the other.

(Mr. Doub) I may have to refer to another one here, Your Honor.

(The Clerk) Defendant Johnson exhibit 92 will be received in evidence, that is a letter dated July 25, 1961, as Defendant Johnson exhibit 92.

(Defendant Johnson exhibit 92 received in evidence.)

By Mr. Doub:

Q. Now, I show you a letter from Mr. Ingram to yourself dated September 28, 1961 and ask you if you received that letter? A. I did.

Q. And what does that letter discuss? A. It discussed the difficulty we encountered to close the perimeter survey on this 74,000 acres. In the pinpointing of the different tracts there were approximately five acres that could not be platted and we worked back and forward trying to work out some means of closing the survey.

Ultimately, I consented to the survey without the 5.14 acres.

(Mr. Doub) I offer it in evidence, Your Honor.

(Mr. Weiner) Is that September 28?

(Mr. Doub) Yes.

(The Clerk) Letter dated September 28, 1961, Defendant Johnson exhibit 93 marked in evidence.

(Defendant Johnson exhibit 93 marked in evidence.)

(Mr. Tydings) That is Government exhibit 159. We just ascertained that, Your Honor. The letter of September 28 from Ingram to Johnson.

By Mr. Doub:

Q. Now, Mr. Johnson, I show you a memorandum addressed to you headed "Memorandum on Brooke Property," and ask you what that is? A. This memorandum is in answer to information that I sought on the Brooke, or the Leisure City property.

Q. Sought from whom? A. Well, at the time Mr. Hollis Rhinehart had first brought it to my attention and whether it was Mr. Hollis Rhinehart or who, I do not know. It is not signed.

But I had requested it. It is addressed to me and I had requested the authorization of the right of Tensaw Timber and Land Company to sell the Brooke property. I wanted to know about the taxes. I wanted to know what the assessment was. I wanted to know whether there were plats and what plats there were.

Also, I wanted to know about tenants, and insurance, particularly the contact with American Asphalt. I wanted to know what bodies of water that the land bordered on or were involved; also, I asked to know what local commissions, whether it had a sanitary commission, state, county, and other information.

I requested this about the time that I assumed the responsibility of supervising title to this large tract in Virginia. And that was pursuant to the agreement that I referred to on May 2, 1961.

Q. That was included in the fee arrangement? A. Yes, that was included in the $25,00 net for the work.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson's Exhibit 94 marked in evidence.

(Defendant Johnson exhibit 94 marked in evidence.)

(Mr. Marion) Wasn't that already in for identification?

(Mr. Doub) I do not think so. It may be; if it is, it is only for identification.

By Mr. Doub:

Q. Mr. Johnson, when would you say your legal services for the land companies for all practical purposes ended? A. I would say the latter part of August, possibly the first part of September, 1961.

Q. Was there any reason for you to stop performing legal services about that time? A. In respect to the two land companies there had been several groups who had shown interest in this development. One was the Sayre-Fisher Company from New York, I believe it was. There is another one, the Kadder Corporation which is listed on the Board. Both of those companies. The Bruce Lumber, and there had been—

Q. I intended to ask you about those companies and forgot. Will you go ahead and tell the jury just what you know about the interest that those companies had in acquiring—

(The Court) What he knows about it or what he did. We do not have to have a history of everyone of these corporations except in so far as he had some part in it.

(Mr. Doub) That is right. I just want you to tell the jury what, if any meetings you attended with any officials of those companies and for what purpose were the meetings?

(The Witness) Well, on or soon after the incorporation of the two companies, the Charles County Land and Leisure City, there were outside interests who met in Washington for the development of these two tracts of land. I met, personally with the groups. I know specifically the president of the Sayre-Fisher Company. I had one or two or possibly several meetings with the Kadder, the president of the Kadder Corporation which is a very large corporation in New York listed on the Exchange.

I do not recall meeting with any one of the Bruce Lumber Company. I may have. But later on I did also meet with a Mr. Finneran who ultimately negotiated a purchase of the two tracts of land through his company.

By Mr. Doub:

Q. Or the stock of the land companies, you mean?

A. Yes.

(The Court) Can't you let the witness tell his story? If you want to correct him over and over again, we will have to work out something. You asked the witness a question. The jury and everyone else are entitled to have him answer it.

By Mr. Doub:

Q. Go ahead, Mr. Johnson. A. In these negotiations there was to be a stock transfer on an exchange basis as to Finneran. I do not know that to be true because I was not a party to the Finneran transaction.

Q. All right.

Now, you have talked about meetings with officers of Kadder Corporation and Sayre-Fisher. What was the purpose of those meetings? Why were they in Washington? A. Well, I had recalled distinctly the Sayre-Fisher Com-

pany, one of their subsidiaries or main company was in the brick business and had been in for over a hundred years. They were interested in expanding. They wanted to utilize their product in this development. They were listed on the Exchange. I recall the American Exchange. They desired to have a stock exchange with Charles County-Leisure City, with Sayre-Fisher. So that they could develop both properties, the property in Virginia and the property in Maryland.

I think the same is true of Kadder. The Kadder Corporation were developers in New York. They were real estate operators. That was also to be a stock exchange arrangement.

Q. Now, I ask you again, Mr. Johnson, why your legal services came to an end, as you testified, about sometime in August, 1961, for the land companies? A. Well, I became concerned because I was representing undisclosed principals. I had difficulty in finding who the principals were. I felt that I should continue my Congressional work which, at the time, we were near the close of the session, with sessions in the evenings and with the combination, I decided to withdraw.

Q. Well, now, when you say that—strike that.

You said you had been representing the land companies and now you refer to "undisclosed principals." Will you state what you mean by that? A. Well, I was anxious to know the ownership of Charles County. I was anxious to know the ownership of Leisure City.

Q. And where did you— A. I had been told that there were undisclosed principals who had the stock interest.

Q. Told by whom? A. I think possibly Mr. Edlin. I do not know who else.

Q. You did seek information as to the stock ownership of those companies from Mr. Edlin? A. Yes, he would tell me that there would be interests who had invested in New York, Chicago, and I sought that information from him.

Q. Well, did he tell you who the stockholders were of those two companies when you asked for that information? A. Well, some names were mentioned but I never secured the information—all of the information that I desired.

Q. Now, I show you Government exhibit 12 which is a check dated May 2, 1961 in the amount of $3,500 on First Continental Savings and Loan, and the voucher says "For Legal" and I ask you whether you received that check and for what purpose it was sent you? A. I received this check. It was in part payment of the fee agreed upon on May 2, 1961, dealing with Charles County and Leisure City land transactions.

Q. That was on account, you say? A. On account of fees which were deposited.

Q. Now, I show you Governmetn exhibit 13 being a check dated May 25, 1961 in the amount of $2,500. The voucher says "Legal Fees In Full—Brooke," and ask if you received that check and what its purpose was? A. This check was received, also in part payment in respect to the fees agreed upon May 2, referred to which was deposited to my legal account, regular legal account in Berlin.

Q. Now, I show you a check of First Continental dated June 7, 1961 in the amount of $4,000, Government Exhibit 14, and the voucher refers to "Legal" and ask you if you received that check and what its purpose was. A. Yes. This check was received. It was deposited in my regular legal account and that was in payment of two previous checks that had been issued which was really a substitution of two previous checks.

Q. Let us see the exhibit number on those. Do you have 26-A and 26-B?

(The Clerk) Yes, these are vouchers that are in Government exhibit 26 marked for identification and here is 67-A and 83.

By Mr. Doub:

Q. Now, you testified that that check was in substitution of two other checks. I show you Government exhibit 26-B, which appears to be a check of First Colony dated May 25, 1961, in the amount of $2,500. A canceled check. I also show you a check dated May 2, 1961 for $1,500 of First Colony, Government Exhibit 27, and also canceled and ask you if those checks were sent to you? A. I do not know whether it was sent but I had received two checks in aggregate $4,000.

Q. Now, you testified that the later First Continental check for $4,000 was issued to you in substitution for those two First Colony checks. Why did you not accept the First Colony Check? A. Well, First Colony at the time was under a pending indictment and I had been before the Department of Justice in reference to the indictment of First Colony. I had discussed with the Attorney General, the Assistant Attorney General, as my lawyer, being a lawyer, in respect to First Colony. I felt that it might be misconstrued that if I accepted a First Colony check that I was paid to go before the Attorney General and not having been paid, I wanted the record clear that there had been no payments to go before the Attorney General or his Assistant, and that is the reason I refused to take the checks and asked them to substitute checks for the $4,000 from First Continental.

Q. Now, were those checks of First Colony which you have just identified which you did not accept, were they issued in payment of any services which you could be deemed to have rendered in the course of your visits to the Department of Justice? A. Absolutely none. This $4,000 constituted the final payment of the $10,000 which was the agreement of May 2, in respect to the legal fee in which I was to get $25,000 total fee net to me. But, as I have stated, I did not receive it.

Q. Now, I show you a First Continental check dated June 28, 1961, in the amount of $3,250 — Legal, on the voucher and ask you if you received that check and what

it was for? A. I did. This is also pursuant to the legal work with Leisure City, Charles County, a check that I deposited to my attorney's account at the Exchange and Savings Bank in Berlin.

Q. What understanding did you have, Mr. Johnson as to these checks from First Continental, to whom or what company they were charged against? A. I had no understanding. I know on April 29 there were loan agreements, one dealing with the Charles County Land to First Colony. There was another loan agreement from Leisure City to First Colony.

Q. You mean Leisure City? A. First Continental.

(Mr. Tydings) Mr. Doub, please let the witness testify.

(Mr. Doub) If he makes a perfectly obvious slip—

(Mr. Tydings) The jury is entitled to pass on it.

(Mr. Doub) All you want to do is have the witness make some mistake in language that you can seize on.

(The Witness) May I say—in answer to that—there had been previous loan agreements and participation by both First Colony and First Continental in respect to Leisure City and to Charles County.

By Mr. Doub:

Q. Charles County Land? A. It was my understanding that these fees were a charge against the funds under that loan agreement.

(Mr. Tydings) And from whom?

(Mr. Doub) And they ultimately would be paid by what companies?

(The Witness) By Charles County and Leisure City.

(Mr. Tydings) Mr. Doub, who gave him the understanding, who told him?

(Mr. Doub) Very well.

By Mr. Doub:

Q. Where did your information come to you that these payments were charged against Leisure City Land and Charles County Land? A. I think that Mr. Edlin and Mr. Robinson and also Mr. Rains on his direct examination told of the participation of both in respect to these very checks on a 70-30 basis.

(The Court) You mean that you understood it from what you have heard on the witness stand or that you understood it at the time.

Unless I misunderstood you, I thought a moment ago you said you had no understanding as to what something was being charged against and now you said you understood it would be charged. And the question, Mr. Doub adopted from Mr. Tydings, was where did you get that understanding, and you have now said in part was based on something you have heard on the witness stand here today, not today, I mean in the last month or so. Now, the question would be what you knew at the time, not what you have heard which the jury have also heard.

(The Witness) Well, may I say, Your Honor, I did not have the loan agreements, I did not know what arrangements each of the associations had as to percentage of participation. It was only Mr. Rains' testimony that I learned as to the percentage. But with Mr. Robinson and Mr. Edlin — there had been discussions as to the loan companies participating against Charles County and Leisure City.

By Mr. Doub:

Q. Now, I show you Government exhibit 67, being a check of August 4, 1961, of Mr. Robinson, in the amount of $2,000, and asked you if you received that check and what was its purpose? A. That was also payment on the fee which was credited to my account, legal account, in Berlin.

Q. You mean you deposited the check? A. They were all deposited, all these checks were deposited.

Q. Now, what was the purpose of that check? A. That was part of the fee, that pursuant to the agreement on May 2.

Q. Now, I show you a check dated September 12, 1961 and on Mr. Robinson, the amount of $1,500 Government Exhibit 83 and ask you if you received that, where you deposited it and what was its purpose? A. Yes, I think this was the last check received, that, too, was a part of the legal fees deposited to my legal fee account in Berlin.

(Mr. Doub) Unless I have missed one, Mr. Johnson, the checks that I have read to you and which you have identified as having been received by you after April 30, 1961, I believe total $16,750.

By Mr. Doub:

Q. Now, did you receive any other checks, and I am not including the Traveler's Checks that I am coming to next, in 1961? A. You mean from Mr. Robinson or First Continental?

Q. That is right, or the Land Company or First Colony? A. I did not.

(Mr. Marion) Except, I assume, of course, the rent check about which he previously testified sometime ago.

(Mr. Doub) I am talking about payments for legal services.

(Mr. Marion) I just did not want the witness' answer to be misunderstood.

(Mr. Doub) You are very helpful.

(The Court) I think it would be better if the Government did not interrupt. I think that it is wiser in many ways to have the cross examination at the appropriate time.

By Mr. Doub:

Q. Now, sir, tell the jury whether you had any discus-

sions with Mr. Edlin about settlement of your fee account? A. I did. I think Mr. Robinson might have been present at the time of the conference or conferences.

Q. And about when was that? A. In October, the last of October. I think it was the 23rd of October, 1961, or before that it was, because I recall talking on the telephone to Mr. Robinson before that.

Q. And what, if any, settlement agreement did you make with Mr. Edlin and Mr. Robinson? A. I stated that I felt that I certainly was entitled to the balance of my account, that I had not done any work in the last few weeks before the conference. I wanted a settlement and it was agreed that I would be paid a balance of $3,000 in full, provided they would pay all costs for plats, engineering, other attorneys, $3,000 net to me.

(Mr. Doub) Would Your Honor indulge me just a moment?

(Pause.)

By Mr. Doub:

Q. Now, will you tell the jury what occurred on the afternoon of October 23, 1961 which was the day before you left the country? A. I had been in touch with Mr. Robinson and told him I was leaving on the 24th of October with the Foreign Affairs Committee and would be, presumably, gone for the remainder of the year. That the settlement we had discussed, I would like to have a check for the $3,000 on the 23rd, which would be the day before I was scheduled to leave. I told him that I wanted to buy travelers checks to be used when I was with the committee. I heard nothing further from Mr. Robinson until the 23rd of October when they called me, I think Mr. Edlin was with him—that they would be in my office in Washington. They were to be in the early part of the afternoon.

Q. Now, who do you mean? A. Mr. Robinson and Mr. Edlin.

Finally, about five o'clock, or 5:30, Mr. Edlin and Mr. Robinson came in to my office. They apologized for being delayed. They had some other matters.

I asked them about the check. I told them that the banks had then closed. It was embarrassing because I understood they would be in early, that I wanted my settlement on the fee with the land companies which we had agreed on. I was told that First Continental Savings and Loan issued Traveler's Checks. It could be arranged through that institution. They were contacted, First Continental Savings and Loan.

Q. Who called them up? A. I do not recall whether it was Mr. Robinson or Mr. Edlin. One or the other called the First Continental Savings and Loan but in any event the Savings and Loan issued Travelers checks and it was arranged that the $3,000 would be issued by First Continental Savings and Loan but on that occasion that day I was to meet Mr. Adelberg who was in Washington. I had no car. I wanted to get to Baltimore, and Mr. Adelberg suggested that we meet at a convenient place. He was out on Wisconsin Avenue. I suggested the Woodner Hotel which is not too far from the Wisconsin area. At the Woodner, there was arranged that Mr. Rains, who was connected with First Continental Savings and Loan, would bring the checks, the Traveler's checks to me at the hotel.

I arrived at the hotel. I believe Mr. Edlin and Mr. Robinson went with me from the Capitol. We arrived there. There was in the lounge quite a number of gentlemen, Mr. Adelberg had a client; Mr. Goldman, Mr. Rains, and possibly one or two more. When we arrived, Mr. Rains came over to where Mr. Edlin was sitting, saying that he had the Traveler's Checks and that an application also was to be signed.

Mr. Edlin and myself moved over to about possibly two or three tables, and I then signed an application blank for the Traveler's checks and that application blank read that

they were being purchased from the Continental Savings and Loan Association.

Q. Is that a copy of what you are talking about, or are you referring to something else? A. This is a copy of the receipt that was given me but it does not show the portion that was signed by me as recipient of the checks.

Q. All right. You signed at that side table then a receipt for the traveler's checks. Now, state whether or not you signed each of the 65 checks? A. I did. I was careful to sign them before taking them out because of loss. All 65 were signed.

Q. Now, Mr. Johnson, Mr. Rains testified that you and Mr. Edlin were over there at the side table for only about fifteen minutes, and it would have taken you thirty minutes to have signed your name on those traveler's checks. Have you made a test of that to find out how long it would take you to do it? A. I have.

Q. How long did it take you? A. Between 12 and 14 minutes. That was the 66 signatures with one for the application and 65 checks.

So, after signing the checks, Mr. Edlin spoke of a service charge of 30 cents, so I gave him 30 cents. I went back to the table where the others were sitting. Mr. Robinson was there. I told him that I wanted a statement showing that this was the balance of my legal fees that it was charged against Charles County and for him to please give me a statement for my own records. He told me he would do that.

Mr. Adelberg and myself then left and returned to Baltimore.

The next morning I left at 8 for the Far East.

Q. Eight in the morning or 8 in the evening? A. In the a.m.

May I say at that time and following that, that the savings

and loan was under the supervision of the State, audited by the State, and I think some mention was made of that in the discussion as to the records and I knew that there would be auditing and I wanted the records to show that it was Charles County.

Q. Now, when did you return from your trip abroad? A. I think it was the 21st, the 22nd of December.

Q. On your return what did you find as to some publicity that had appeared in a newspaper in Washington? A. Well, there had been some publicity in the Washington Post.

Q. About these travelers' checks? A. Possibly, but I had not been in the country and I had not read the papers.

Q. Now, I show you a paper and ask you what that is? A. This is a handwritten statement from Mr. Robinson under date of October 25, 1961, in which he confirms the Traveler's Checks and says that they were charged in the Charles County fee.

Q. When, however, did he write that? A. This was written after my return because I was very indignant. I had not gotten the letter that Mr. Robinson had promised. I had told him that he had not done what he had agreed to do.

And he then sent me this letter which was dated October 21, 1961.

Q. All right.

(Mr. Doub)I offer this in evidence.

(The Clerk) Defendant Johnson exhibit 95 marked in evidence.

(Defendant Johnson exhibit 95 marked in evidence.)

By Mr. Doub:

Q. When had you asked Mr. Robinson for a confirmatory letter, upon your return from abroad? A. I do not recall the date. I presume it was some time in December.

Q. You did not return you say until— A. The last of December, yes, or maybe January. I do not recall.

Q. And shortly after that, when, you received this letter? A. Yes.

Q. It is dated October 25, 1961, and it reads:

"Dear Tom:

"This note is to confirm that I have paid for the Traveler's Checks and charged the $3,000 to your attorney account for Charles County for your charges for legal services.

"I believe this"—with a word left out—"your account in full. On your return please send a receipted bill. Harry still has a balance due.

"As aways, my best to you and Agnes,

s/"Bill."

Now, this is written from Miami. It says "On your return, please send a receipted bill." Is it possible that you had not returned when he wrote this? A. It is possible but I do not recall that. But there was a subsequent letter.

Q. I would like the Government to produce the original of a letter from Mr. Robinson to Mr. Johnson dated February 28, 1962.

(Mr. Marion) It is downstairs.

(Mr. Doub) I have a photostat, may I put that in?

(Mr. Tydings) Let us have a look at it.

(Mr. Doub) We can substitute the original tomorrow.

By Mr. Doub:

Q. Now, I show you what purports to be a photostatic copy of a letter addressed to you dated February 28, 1962, from Mr. Robinson, and ask you whether you received the original of that letter? A. I did.

(Mr. Doub) I offer it, Your Honor, with the understanding the original may be substituted tomorrow.

(The Clerk) Defendant Johnson exhibit 96 marked in evidence.

(Defendant Johnson exhibit 96 marked in evidence.)

By Mr. Doub:

Q. Now, how did Mr. Robinson happen to write you this letter upon the same subject, Mr. Johnson? A. It was at my request I had received this handwritten letter. I was not too satisfied as to the date nor the wording to be in his own handwriting. So I requested a current or dated letter as of the date of my request to explain what it is.

Q. What do you mean you were not happy about the date of it? A. I did not know whether or not it was dated a different date from the—or may I say, I presume it had not been executed at the time, or signed at the time of October 25.

Q. Johnson exhibit 96 is a letter on the letterhead of Mr. Robinson. It is a typed letter, February 28, 1962 to Mr. Johnson.

"Dear Tom:

"Pursuant to our conversation, this is to confirm that the $3,000.00 traveler checks received by you from First Continental in October of 1961, representing attorney's fees due to you from Charles County Land Company, Inc., were paid for by Charles County Land Company, Inc., with its check drawn on the Gotham Bank of New York, in the sum of $3000."

"Very truly yours,

"Bill."

* * * * * *

[Tr. 3457-3460]

Q. Mr. Johnson, there is in evidence a letter of yours bearing the date, December 27, 1961, to Mr. Ashby, en-

closing a check for $4400. You sent that letter and that check, did you not? A. Yes, sir. I sent the letter.

Q. Now, have you prepared a tabulation of all legal fees which you received from April 30, 1961, to October 1961, inclusive? A. I have.

(Mr. Doub) I would like to offer this in evidence, Your Honor.

(The Court) May I see it a minute?

You mean fees received in connection with this matter or any fees? You asked him about legal fees received.

(Mr. Doub) I am going to ask him some more questions.

(The Court) I don't know whether your question was meant to be all legal fees of any kind he received from anybody or legal fees received in connection with the matter he has been testifying to.

(Mr. Doub) I am going to ask him both, Your Honor.

(The Court) It was an ambiguous question.

By Mr. Doub:

Q. Does that tabulation which you say you prepared include all payments which you received from any source? A. No, Mr. Doub. I had legal fees from other cases.

Q. Other clients? A. Other clients, which were deposited to this same account, legal account.

Q. But this includes all legal fees? A. Pursuant to the May 2nd agreement.

Q. Involved in this case? A. Yes.

(Mr. Tydings) I don't quite understand your question and the answer, Mr. Doub.

(The Court) I think if Mr. Doub would let his witness answer instead of trying to correct him every time. The witness said quite clearly to me these were all of the fees

he received pursuant to the agreement of 2 May 1961, to which he has testified. Mr. Doub says all those involved in this case. I don't think he really means that.

(Mr. Doub) That is all that are involved, Your Honor, because that is all the Government has put in evidence. This is everything the Government has put in evidence.

(The Court) You word it in your own words if you want to correct it that way.

(The Clerk) Defendant Johnson's Exhibit 97, marked in evidence.

(Defendant Johnson's Exhibit No. 97 was marked in evidence.)

(Mr. Doub) This shows the following checks that you received after May 1, 1961.

Date of Check	*Maker*	*Amount*
May 2, 1961	First Continental Sav. & Loan	$3,500.00
May 25, 1961	do	2,500.00
June 7, 1961	do	4,000.00
June 28, 1961	do	3,250.00
August 4, 1961	William L. Robinson	2,000.00
Sept. 12, 1961	William L. Robinson	1,500.00
Oct. 23, 1961	Travelers Checks	3,000.00
Total Receipts		$19,750.00

(The Court) Now, Mr. Doub, that far it is simply a tabulation of checks that are already in evidence.

(Mr. Doub) That is right.

(The Court) From here on, is it just a tabulation, or is it new evidence?

(Mr. Doub) No new evidence, just a tabulation of what is in evidence. It shows then:

Disbursements

Date	*Payee*	*Amount*
July 5, 1961	Harry Adelberg	$500.00
Aug. 7, 1961	Harry Adelberg	$500.00
Dec. 27, 1961	Goodrick, Ashby & Whittier	4,400.00
Total Disbursements		$ 5,400.00
Net Received		$14,350.00

By Mr. Doub:

Q. Now, Mr. Johnson, did you receive from anyone in 1960 or 1961 any payment in cash? A. Nothing whatever.

Q. Did you receive any gifts from Mr. Edlin? A. I recall one gift. We were in the time of the business meeting in Jamaica. I think he bought a box of cigars for me. That was the extend of the gifts from Mr. Edlin. Congressman Boykin did give me the famous bull, which has been referred to.

* * * * * *

[Tr. 3461-3468]

Q. I show you what purports to be a certified statement of the financial condition of First Colony Savings and Loan Association as of May 31, 1961, and ask you if you received that about that time or shortly thereafter? A. I did pursuant to my request, because I requested a statement of the condition of First Colony Savings and Loan, and it does reflect a very excellent—

(The Court) Now, Mr. Doub, are you putting that in as a correct statement or not? Do you want to put it in that that is a true statement of First Continental's affairs, or for what purpose is it being put in here? I want to know how far to allow cross examination on it.

(Mr. Doub) I am offering it for the purpose of showing what the financial condition of that Association was represented to Mr. Johnson to be.

(The Court) What is the relevancy of that to any issue in the case?

(Mr. Doub) Well, Your Honor, this case has many facets, and I think that the Government, it may be from the opening statement, they might try to argue that Mr. Johnson had different information from the information that I am showing came from his file.

(The Court) You haven't shown it—if this came from his file. You are not offering it for the truth of the statement then?

(Mr. Doub) I don't know anything about the truth. It is a certified statement with a certified public accountant's name on it.

(The Court) I am asking you, are you offering it for the truth of the statement? You say you are offering it to show something that Mr. Johnson got, what was represented to Mr. Johnson?

(Mr. Doub) That is right.

(The Court) If you think that is relevant to the purposes of this case, I will admit it, but I will also allow the Government to cross examine on it, if you wish to offer it, if you wish to open up that point.

(Mr. Doub) Yes, I wish to offer it, Your Honor.

(The Court) All right.

(Mr. Genn) I don't think that is relevant to this proceeding.

(The Court) It will not be admissible against Mr. Edlin.

(The Clerk) Defendant Johnson's Exhibit 98 marked in evidence.

(Defendant Johnson's Exhibit 98 was marked in evidence.)

(Mr. Doub) Defendant Johnson's Exhibit 98 is a state-

ment of the financial condition of First Colony, dated May 31, 1961, and under resources:

"First Mortgage Loans—Insured	$1,833,759.45
First Mortgage Loans in Process—Insured	129,000.00
Cash and U.S. Government Obligation (12,721.88)	307,045.31
Fully Leased Office Building, at Cost Less Depreciation	155,986.02
Office Furniture and Equipment, at Cost Less Depreciation	27,985.99
Systematic Savings Plans—Contra	290,080.81
Other Assets and Real Estate Owned (6,280.80)	17,709.65
Junior Liens—Insured	5,112.85
Total Resources	$2,766,680.09

Capital and Liabilities

Savings Accounts (includes $290,080.81 receivable under systematic savings plans—contra)	2,295,357.82
Loans and Commitments in Process	245,944.32
Reserves, Surplus and Subordinated Stock ($50,000.00)	134,857.60
Advance Payments by Borrower	26,114.93
Other Liabilities and Mortgage Payable—Building ($56,379.90)	64,405.41
Total Capital and Liabilities	$2,766,680.08

By Mr. Doub:

Q. I show you a financial statement of First Continental Savings and Loan Association as of July 31, 1961, and ask you if you received that statement and it came from your file? A. I did, and at my request I received the statement.

Q. From whom? A. I don't recall how it reached my

office, but I did receive it from First Continental Savings and Loan Association.

(Mr. Doub) I offer it in evidence, Your Honor.

(The Court) Is there any objection?

(Mr. Genn) The same objection.

(The Court) It will not be admissible against Mr. Edlin. The Government doesn't object. It will come in subject to cross examination.

(The Clerk) Defendant Johnson's Exhibit 99 marked in evidence.

(Defendant Johnson's Exhibit 99 was marked in evidence.)

(Mr. Doub) (Reading)

"First Continental Savings and Loan Association, Inc.

Condensed Balance Sheet

July 31, 1961

Assets

Cash on Hand and in Banks	$1,760,522.29
U. S. Government Bonds	4,350.00
First Mortgage Loans	4,505,031.97
Loans on Savings Accounts	500.00
Deferred Charges and Other Assets	16,453.77
Leasehold Improvements and Equipment	33,573.61
Total Assets	$6,320,431.64

Capital and Liabilities

Savings Accounts	$3,132,947.03
Accounts Payable and Accrued Taxes	12,014.47
Loans and Commitments in Process	2,561,598.56
Stock, Surplus and General Reserves	613,871.58
Total Capital and Liabilities	$6,320,431.65

"In my opinion, the above Balance Sheet fairly presents the financial position of the First Continental Savings and Loan Association, Inc., as at July 31, 1961.

JAMES C. WHITE
Certified Public Accountant."

(By Mr. Doub:

Q. Now, Mr. Johnson, I show you a check dated 5-5-61, drawn on your special account in the Exchange and Savings Bank, payable to Frank W. Hales, Clerk, in the amount of $14.70, and ask you what that check was for? A. That check is on my legal account at Berlin to the Clerk of the Circuit Court to record a lease that was entered into between First Continental Savings and myself and Mrs. Johnson.

(Mr. Doub) I offer it, Your Honor.

(The Clerk) Defendant Johnson's Exhibit No. 100 marked in evidence.

(Defendant Johnson's Exhibit No. 100 was marked in evidence.)

By Mr. Doub:

Q. Referring to the tabulation which is in evidence of payments you received from May 1, 1961 until the end of the year, did you receive any checks from First Continental Savings and Loan or from Mr. Robinson or Mr. Edlin or Leisure City Land or Charles County Land Company from May 1, 1961, until the end of the year 1961, other than those shown on that tabulation? A. I did not.

Q. Did you ever ask Mr. Edlin to give you any gifts? A. No, I don't recall ever doing that.

Q. Did you ever ask him to give you any cows? A. No, and I didn't receive any.

Q. You stated you never received any gifts from him other than a box of cigars in Jamaica. Did he ever promise you anything? A. Not to my recollection.

Q. Do you recall any conversation in the summer of 1961 or at any other place where there was present Mr. Edlin, Mr. Robinson, Mr. Frank Boykin, Mr. Louis Goldman, and in the course of such meeting or discussion Mr. Edlin saying, "When am I going to get some results? It has been costing me a lot of money, and all I have been getting is a lot of talk. I want results." Did Mr. Edlin ever make that statement in your presence? A. I don't recall his ever making it. I don't remember the meeting.

Q. Well, do you recall Mr. Boykin replying to any statement of that kind, "How dare you speak to me like that?" A. No. It doesn't sound like Congressman Boykin.

Q. Do you recall in the summer of 1961 any meeting in a private dining room at the Congressional Hotel where Mr. Edlin, Mr. Robinson, Mr. Frank Boykin, and Mr. Louis Goldman and yourself were present? A. I do not recall any meeting.

* * * * * *

[TR 3475-3545]

Q. Mr. Johnson, you testified that on May 2nd, you agreed with Mr. Edlin and Mr. Robinson on a fee of $25,000 of which $10,000 would be paid promptly with respect to your work for the land companies. Were all the checks that you received thereafter for those services deposited in your Special Account at the Exchange Bank in Berlin? A. Yes, what I term "my legal account" in Berlin, the Exchange and Savings Bank.

Q. Did you receive any forwarding fees from the other lawyers which you deposited in that Special Account in the year 1961? A. Yes, I had other fees which were deposited in the same account. As to forwarding fees, I recall I received one from Mr. Adelberg, $1,000, which dealt with what we term the "Calhoun Case", a tax case. There was a fee of $3,500 from a Mr. William Adelson, a Baltimore Attorney, matters referred to him in respect to revision and compliance with the regulatory Act dealing with savings and loans.

Q. By what companies? A. I think he represented the First Colony, the First Continental Savings and possibly some other companies, but I know definitely he represented those two.

Then I had another fee from a Mr. Stewart Lynch, who is now a Judge in Delaware. That was $1,500 on a poultry case.

Q. Now, during 1960 and 1961 did you deposit any legal fees which you received from any source in the Johnson & Johnson bank account in Snow Hill, or in any bank account other than your special account at the Exchange Bank in Berlin? A. Well, I know I never deposited any in the Snow Hill Account. I had not been using that for some period of time.

Q. Mr. Johnson, did you ever present or counsel Mr. Edlin as to any of his personal affairs? A. No.

Q. Did you have occasion to have very much contact with the officers of First Continental Savings and Loan or First Colony Savings and Loan? A. No, my work was purely legal and working with and through Mr. Robinson.

Q. And the matters you worked on, were they or not referred to you by Mr. Robinson? A. By Mr. Robinson. There was one exception and that was the proposed loan of one and a half million dollars on the Marrakesh Hotel which I testified to. I think that is the only exception.

Q. Were you at any time a director, officer or stockholder of the Charles County Land Company? A. I was not.

Q. Were you at any time a director, officer or stockholder of the Leisure City Land Company? A. I was not. Purely legal.

Q. Were you at any time a director, officer or stockholder of First Continental Savings and Loan Association? A. I was not with the exception of having a small savings account in the First Continental Savings and Loan.

Q. Were you a director, officer or stockholder of First Colony Savings and Loan Association? A. I was not.

Q. Did you have anything to do with the issuance of and sale of the stock of Charles County Land Company or of Leisure City Land Company? A. I did not.

Q. Were you ever offered by Mr. Edlin a commission or a stock interest in either of those companies? A. Well, I recall on one occasion, maybe two, that a commission was discussed for a share of stock in one or both corporations, yes.

Q. Where did that discussion take place? A. At the Capitol. I think one meeting, maybe one at Lykes Boykin's office. But I know Mr. Lykes Boykin was present at the time.

Q. State whether or not Mr. Lykes Boykin was also offered a commission at the same time, at the meeting in his office? A. There was also a suggestion as to Mr. Lykes Boykin.

Q. And what position did you and Mr. Lykes Boykin take? A. We flatly refused any share of stock or any commissions.

(Vol. 29 [3478]) Q. Now, Mr. Johnson, I now wish to take up your visits to the Department of Justice. I direct your attention to the latter part of February, 1961 and ask you whether at that time there was a discussion about a pending indictment against Mr. Edlin and against First Colony? A. There was.

Q. And will you tell the jury just who was present and [3479] what occurred? A. Sometime I do not remember exactly, but I think it was the last of February, I had a call from Congressman Boykin, telling me that Lykes Boykin, I believe it was, had been in touch with him, and had informed him that there was a pending indictment against First Colony Savings and Loan, Mr. Edlin and certain other parties involving a mail fraud charge.

Q. And what did you and Mr. Frank Boykin discuss as to the consequences of this? A. Well, in the discussion, that we were concerned that it could have a great impact on the development that we were under negotiations with First Colony and First Continental for a very substantial loan, $2.3 million, and our concern was whether that would interfere with the granting of the loan.

Q. Well, now, what did you then do after hearing that? A. I got in touch with Mr. Edlin. I think that was by telephone, and Mr. Edlin stated that it was true; then he went on to state how unjust the charge was, that it was a most unfair, unreasonable accusation. That it had been motivated by certain competitors. He mentioned Federally chartered institutions. Also by a former associate of his, a Mr. Bridges. And that there was certainly no merit to the charge.

[3480] Q. Now, what happened next with particular reference to a visit to Mr. Robinson? A. I think it was either that day or the day following or soon thereafter Mr. Robinson came to see me and told me that Mr. Edlin was greatly concerned as to my conversation with him, that he had talked with Mr. Edlin and Mr. Edlin suggested that he come to explain exactly the nature of the charge.

Mr. Robinson spent considerable time in my office reiterating what Mr. Edlin had stated and going beyond, he had reviewed the legal aspects; that he felt it was certainly without merit; that it was a great injustice that was being done to Mr. Edlin; that it was unfair that he, Mr. Robinson, could assure me that the case would never be found on the basis of the charges brought, that Mr. Edlin was not guilty of the charges.

Q. What did you reply to that? A. I asked him about the indictment, and I told him that I would like to see a copy of the indictment, and Mr. Robinson informed me that the indictment was in Florida and I told him that I would be in Florida in a few days. I would like to read the indictment.

Q. I think in testifying about your trip to Florida in early March of 1961, you testified that you obtained a copy of the indictment from Mr. Robinson [3481] A. I did. I think Mr. Robinson knew that I was coming down and I had told him.

Q. Did you then have a discussion of this matter with Mr. Frank Boykin? A. Yes, I talked with Congressman Boykin soon after my meeting with Mr. Robinson. Congressman Boykin told me that Mr. Robinson had been to see him, had given him a very strong argument; as he expressed it there, as to the great injustice and that he was impressed with the argument that Mr. Robinson had related to him.

Q. Now, after you returned from Florida on March 6, did you have a further discussion with Congressman Boykin? A. I did. I was in Congressman Boykin's office and the matter was again discussed and we both had the feeling that there was some merit to what Mr. Robinson had stated and I believe it was Congressman Boykin who stated that he thought the thing to do was to let the Attorney General take a look at it, as he expressed it, and to see whether or not there was merit to the case.

Q. And was anything said at that meeting about arranging an appointment with the Attorney General? A. Congressman Boykin asked me if I knew the Attorney General. I told him I did not know him. The Congressman told me that he knew him. He knew the family quite well. As to an appointment, he would be glad to [3482] arrange it.

Q. In that discussion with Mr. Boykin, was there any reference to the so-called Dranow treasury note matter? A. It was. In the meeting Congressman Boykin told me that he had—or just prior thereto—had been the guest, I believe, of the Attorney General for dinner. That there was a discussion as to what we term the Dranow matter in which there was some involvement of James Hoffa. And the Attorney General was very anxious to get a

memorandum and Congressman Boykin stated that he had promised the Attorney General such a memorandum.

Q. And was anything said by Mr. Boykin as to who he had asked to prepare such a memorandum? A. He told me he had been touch with Mr. Robinson, and that Mr. Robinson had promised—he went further and said that he certainly was not going to get in touch with the Attorney General on any matter until he got the memorandum which he had promised the Attorney General.

Q. At that time, Mr. Johnson, had Mr. Edlin or Mr. Robinson asked if you would discuss this case with the Attorney General? A. Absolutely not, and I want to make it clear that neither one had mentioned about going to the Attorney General of the United States.

Q. Well, do you recall when Mr. Edlin or Mr. Robinson [3483] or both were told that you and Mr. Boykin might go to the Justice Department? A. It was some days following the meeting that I referred to with Congressman Boykin. There was a meeting attended by Mr. Edlin and Mr. Robinson in which the matter was discussed.

Q. Well, was Mr. Edlin pleased or displeased? A. Mr. Edlin seemed to be pleased. He said that he was anxious that the case be considered on its merits. He again took the position which he had always taken, that it was a malicious charge; it was unfair. And I think I mentioned to Mr. Edlin at the time that any meeting with the Attorney General for review, there must be full disclosure of his defense and that he must, of course, consider that before it was reviewed.

He said he had no concern about giving his full defense to the Attorney General.

Q. Will you state whether or not Mr. Edlin made any suggestions as to whether the visit that you and Mr. Boykin had contemplated making to the Attorney General might be postponed and if so, why? A. Yes. At the meeting there was a reluctance on the part of Mr. Edlin as well

as Mr. Robinson, to have a meeting with the Attorney General.

[3484] Q. Why? A. Because of the Dranow matter. At that particular time there was an alleged claim against First Continental Savings and Loan for the $100,000 and negotiations were under way with the Teamsters, or representatives, as I understood it, possibly to settle the claim and they felt that, if there were a report to the Attorney-General, and investigation, it might prevent the continuation of those negotiations.

Q. Now, Mr. Johnson, was Mr. Lamar Caudle at the meeting to which you have just referred? A. I do not know—I do not recall. He could have been but I do not recall.

Q. Now, what, if anything, was said in the meeting to which you have just referred about a memorandum about the case being prepared? A. During the conversation I addressed myself to Mr. Robinson and told him that, if there were a meeting before the Attorney General for review, that I would have to have some report on the case. I knew nothing about it. I did not feel that I could intelligently discuss the matter with the Attorney General and I also made the suggestion that I thought the Attorney General may require such a report.

Q. And did Mr. Robinson say he would or would not prepare a memorandum such as this? A. He may have but I do know later he did send a memorandum.

(Mr. Doub) May I have Government Exhibit 93, 94 and 95?

By Mr. Doub:

Q. Now, I show you Government Exhibit 93 which is a photostat : copy of a letter from Mr. Robinson addressed ot you, or purports to be; it is dated March 20, 1961, and the first sentence says: "I enclose herewith the first pages of the memorandum, togethre with a portion of Exhibit 'A' to be the first of the exhibits attached to this mem-

orandum. I have not, of course, attempted any revision; this is the first draft and although possibly somewhat lengthy, may very well be the final draft. I expect to send you the pages daily as they are completed."

Do you have the original of that letter? A. I do not, but I recall receiving this letter.

Q. And is the first— A. As I say, I may have it, but my files have been disturbed and I did not find it.

Q. Now, is the memorandum or the first part of the memorandum which Mr. Johnson refers to in that letter— A. Mr. Robinson.

Q. —Mr. Robinson refers to in that letter of March 20, is that a part of the memorandum which was later submitted to the Attorney General? A. It was.

Q. Now, I show you Government exhibit 94 which purports to be a photostatic copy of a letter from Mr. Robinson to you dated March 21, 1961 and ask you whether you have the original of that letter? A. I do not have the original but I did receive it.

Q. You did receive it? A. Yes.

Q. Now, this letter states:

"Dear Tom:

"I enclose herewith for your examination and study, the next section of the memorandum Re The First Colony Indictment. I am well aware of the length of this memorandum and I am sure that you both desired and expected a shorter work. Mr. Caudle and L. L. Robinson, my father, who are both familiar with this case, feel as I do, that the length is unsatisfactory, but that the defenses and objections to this indictment cannot be reasonably presented in shorter form."

Now, I show you Government exhibit 95 which purports to be a photostatic copy of a letter from Mr. Robinson to you.

(Mr. Williams) Your Honor, I would like to interrupt Mr. Doub for a moment.

Government exhibit 94 has been heretofore identified but it is not in the record.

(Mr. Tydings) Well, we will ask that it be admitted in evidence as soon as Mr. Doub finishes.

(Mr. Williams) Part of it has been read. We think it should go in to the record.

(Mr. Tydings) We agree but it was objected to by all defense counsel when we tried to enter it into evidence.

(The Court) Do you wish to offer it?

(Mr. Doub) I will offer it.

(The Court) Why don't you read the whole thing or, if you want, Mr. Marion can read it?

(Mr. Doub) March 21, 1961.

"Dear Tom:

"I enclose herewith for your examination and study, the next section of the memorandum Re The First Colony Indictment. I am well aware of the length of this memorandum and I am sure that you both desired and expected a shorter work. Mr. Caudle and L. L. Robinson, my father who are both familiar with this case, feel as I do, that the length is unsatisfactory, but that the defenses and objections to this indictment cannot be reasonably presented in shorter form. I am sure that I have made the conference more difficult for you and Frank, and it will be difficult to require the reading of this entire memorandum, but I, at least, do not feel that a reasonable understanding can be had of this indictment or the defenses to it unless a full explanation is given.

"Thanking you in advance for your patience, I am,

"Very truly yours,

"W. L. Robinson."

(The Clerk) Mr. Doub, may I please have that to mark?

Government exhibit 94 previously marked for identification now marked in evidence.

(Government exhibit 94 marked in evidence.)

By Mr. Doub:

Q. Now, I show you government exhibit 95, which is in evidence, from Mr. Robinson to you and ask you if you have the original of that letter? A. I do not have the original but this is a copy of the original that I received.

Q. And I notice the first sentence reads:

"I enclose herewith the final pages of the proposed memorandum together with the balance of the exhibits, excepting, of course, such information as you may be able to add in regard to the payment of the initial dividends by Federal and excepting a copy of the Cassell Sales brochure which I believe to be attached as a part of the exhibit.

"I also enclose a synopsis of the indictment which while wholly inadequate, I believe as an overall defense, may serve in some degree to emphasize the weakness of this indictment.

"I will bring, of course, the original of each document with me on my arrival in Washington Thursday evening."

[3489] What happened after that,—what happened on March 22? A. Well, on March 22, 1961, I was advised by Congressman Boykin that an appointment had been made with the Attorney General to see him on a personal matter for March 25, 1961.

Q. Now, will you tell the jury what occurred at the meeting on that day in the Attorney General's office? A. Congressman Boykin and myself went to see the Attorney General. We arrived, we had to wait some minutes. He was busy. Finally, he came out of the outer office, [3490] and spoke to us and took us into his private, or his large office.

The first conversation dealt with pleasantries because Congressman Boykin, presumably, knew all of the family and asked the Attorney General and his wife, about his father. We touched on some of the legislation.

Then Congressman Boykin spoke of the land development in Southern Maryland which was referred to as "Boykin City." The Congressman spoke, that over a period of years, he had assembled this 8,000 acres, that it had been a difficult task but that it would some day, or he hoped soon be a new city since it was only approximately 20 miles from Washington.

The Congressman spoke that a firm named Desser & Garfield were developing the tract, that there was a $6 million mortgage on the property, that if the development continued and was successful, that mortgage would be paid off and he told the Attorney General that he would pay personally income taxes of approximately $2 million. The Attorney General seemed to be very pleased as to the amount of taxes that the Congressman would pay the Government.

Furthermore, Congressman Boykin spoke of the great work, the legal work that I had been doing with respect to [3491] the development.

Then I told the Attorney General that it was true that this development was under way but it needed capital, that two savings and loan associations, First Colony and First Continental Savings and Loan, were negotiating with Desser to loan some $2 million; That I, through an attorney for the Association, had been and was representing the Associations: That we had been in constant negotiations, trying to effect this loan which would mean so much to Southern Maryland; that it had reached an impasse because of the pending indictment against Mr. J. Kenneth Edlin, First Colony and certain others; that this indictment likely would prevent or seriously impair the loan which was pending. Furthermore, I spoke of the local economy, there were to be plants put in Southern Maryland, what it would mean

to Southern Maryland as a distress area. Furthermore, I called to the Attorney General's attention that neither Congressman Boykin nor myself were there to ask for any favors or to interfere in any way. That we had talked with Mr. Edlin and counsel, that these parties told us that there is questionable merit to the pending cases.

We went into quite a lot of detail as to what had been told us. How the case had been motivated as we were told, by the Federally chartered institutions to [3492] rid them of the competition of the independents. Furthermore, the disgruntled associate, Mr. Bridges, who had also given trouble and had tried to press this case.

Q. What did you ask the Attorney General to do? A. So, ultimately, after advising him of our position in the matter as to the legal work and counsel of Mr. Boykin's interest, we asked if he would review the case on its merits.

(The Court) I do not understand what you mean. You say after telling him of the legal work and counsel and what Mr. Boykin had done. I think you had better be more explicit so we can tell just what that means.

(The Witness) Well, Mr. Boykin had gone into detail as to his originating this large tract of land and making one composite 8,000 acres of it. Also, as I stated, that he was interested in the $6 million mortgage; that in that mortgage he, if paid off, would pay substantial taxes and he was interested in seeing that the project would go forward.

I spoke as to the pending loan, that I had represented and was representing the lending institutions, First Colony, which was under indictment, and First Continental; that, because of the pending indictment, we were having difficulty in proceeding with this loan; that we [3493] asked for a review of the case on its merits.

By Mr. Doub:

Q. Now, what did Mr. Kennedy reply? A. He replied that he had never heard of the case, that we should submit

a memorandum, a full memorandum dealing with the entire matter.

Q. In the course of that meeting were any charts and plats shown to him with respect to the Boykin City development? A. Yes, there were three plats shown to him, known as, I think they referred to them, "Boykin City." They projected the shopping center, the type of homes to be built, a country club and there was some discussion as to the name. I think the Attorney General had some amusement over the name "Boykin City." The Congressman said, perhaps that may be changed, but in the memorandum the Attorney General went further and stated that it was to be sent by special messenger, personally to him. And even further in his direction to us that I or Congressman Boykin with me would see him the following Thursday at his office.

Q. After the March 25th meeting with the Attorney General what occurred? A. In compliance with his request, I was to see him the following Thursday. I felt that I should be in the District for some occasion and I wrote to the Attorney [3494] General asking that I see him at a later date, sending a memorandum to him.

Q. Is that the letter in evidence, Mr. Johnson, your note to him, is that in evidence? A. I think it is, yes.

Q. Now, did you have any talk with Mr. Robinson about the submission of this memorandum as requested by the Attorney General? A. Yes, following the meeting with the Attorney General, I did see Mr. Robinson. I told him that the Attorney General requested a full and detailed memorandum; that I did not have sufficient information about the matter, that it would be suggested by me that he, Mr. Robinson, prepare a memorandum.

Q. And did he then submit to you such a memorandum? A. Well, he had under preparation a memorandum and he did submit to me later a memorandum.

(Mr. Doub) Now, Government exhibit No. 86-A is a letter dated March 28, 1961, from you, Mr. Johnson to the Attorney General and it states:

"Pursuant to your suggestion on Saturday past, I am happy to deliver by messenger the enclosed memorandum.

"As I will be in the District for the Easter recess, I would appreciate the opportunity of calling you on my return Monday week, rather than on Thursday next."

Now, did you make any changes in this memorandum which had been, you say, prepared by Mr. Robinson?

(The Witness) You are speaking now of the second portion of the memorandum. There are two memorandums.

By Mr. Doub:

Q. Yes, I am talking first about the lengthy synopsis and exhibits. A. I suggested changes. Mr. Robinson asked that I look over the memorandum. I read it hurriedly. I notice he had reference to the Department of Justice which could be construed rather derogatorily and I suggested that be eliminated and he told me it also appeared in two or three other places of his memorandum and that was the only changes made.

Q. Did you make those changes or did Mr. Robinson? A. He made those. He was in the office. I told him that I wanted to get the memorandum to the Attorney General as requested.

He asked the use of one of the secretaries, and one of the secretaries in the office made the changes for him.

Q. Now, I notice Government Exhibit 86-B, which is a two-page preliminary memorandum, on top of this long lengthy memorandum is included. Was that suggested by you? A. Yes, I told him that I did not think the synopsis that he had prepared fully disclosed—

Q. Louder, Mr. Johnson. A. I thought that there should be further explanation and that I suggested to him a brief outline of the case other than on the legal points.

Q. Now, did you and Mr. Robinson prepare this brief outline then? A. No, at the time he was making changes

on the other that I referred to, he also dictated and that was typed in the office—the two pages.

Q. In your office? A. Yes.

Q. All right.

(Mr. Doub) Now, I would like to read this two page memorandum but I promise not to read the rest of it.

(The Court) It has been read once.

(Mr. Tydings) That is all right. The Government would just as soon have him read it again.

(Mr. Doub) I would like to read it again, Your Honor. It has been a long time.

"Over a period of months, negotiations have been under way, dealing with the financing of a residential and commercial development known as 'Boykin City' located in Southern Maryland, some twenty miles from Washington, D. C., by and through First Colony Savings and Loan Association, a Maryland Corporation organized in 1958 with its principal place of business in Prince Frederick, Maryland, Southern Maryland.

"The initial loan will be in excess of $2 million and will provide housing, a country club, golf course, modern shopping center, streets, sewer and water system, and other improvements.

"In addition, the 8,000 acre tract will also include a commercial development and interest has already been shown by certain corporations to locate their plants in that labor-surplus area. At the present time, however, First Colony, together with certain individuals are under indictment in the United States District Court of Maryland and the constant danger of publicity in respect to the indictment and the certainty of news releases during any trial of this subject matter is of grave concern to all parties involved, especially as it affects the availability of funds for the Boykin City Development.

"Accordingly, a careful study has been made of the indictment, the complete file reviewed and discussions held with various representatives of the Association. It would appear that the indictment in question may have been greatly motivated by the activities of one James W. Bridges who, apparently seeking vengeance, conferred with the U. S. Savings and Loan League officials, representing Colony's major competitors and presumably with their advice and assistance, contacted the Postal Department. As to the degree of pressure and influence brought by the League, it is difficult to ascertain, but in the normal course of events, if any of the advertisements of First Colony were in fact, questionable, then a conference could have been held between representatives of the Association and the Postal Department.

"It is interesting to note that many of the activities common to the industry that might possibly be questionable do not appear with respect to this particular Association. In the examination, no loans directly or indirectly appeared to have been made to officers or directors of the Association, nor does there appear that any business is being done with insurance agencies or title companies owned or represented by officers or directors of the Association, or members of their families.

"Annual audits have likewise been made by independent certified public accountants and from the statements resulting, the Association appears to be in splendid financial condition, capable of fulfilling its commitment to the Boykin City project.

"In a general discussion of the Boykin City loan, request was made for detailed memorandum for each and every paragraph of the indictment. With the consent of the Association, an additional copy has been secured and the same is enclosed herewith so that a better understanding may be had of the pending matter."

[3499] By Mr. Doub:

Q. Now, the Attorney General testified that you and Mr.

Boykin met with him on April 12, 1961. What occurred at that meeting? A. At that meeting, it was in response to his request to see him, and he wanted to advise us that he was [3500] desirous of a review of the case on its merits and that he had referred the case to Mr. Herbert J. Miller, who was head of the Criminal Division of the Justice Department.

Q. Do you mean he had referred the case, or do you mean he referred this matter of the review to him? A. The matter of the review was referred to Mr. Miller and just at the close of the meeting on that date, Mr. Miller came in the office of the Attorney General, and the Attorney General introduced Congressman Boykin and myself to Mr. Miller, and the Attorney General, in his closing remarks or near the close of the conference, said that we were to get in touch with Mr. Miller.

Q. Well, now, was that a long or a short meeting? A. It was very short because at all of the meetings with the Attorney General—he is quite a busy man, he is usually on the telephone or people are in and out of his office.

Q. Did he indicate that he had had an opportunity to read this memorandum you had sent him before? A. No, he did not say anything as to that.

Q. Now, the records of Mr. Miller indicate that you and Mr. Boykin had a meeting with Mr. Miller in his office on April 17, 1961. What is your recollection as to what occurred at that meeting? [3501] A. Well, that meeting was in response to the Attorney General's suggestion that we see Mr. Miller; that was more or less, as we term, "a rehash" of what was said to the Attorney General. The plats which had been shown to the Attorney General were also shown to Mr. Miller.

Congressman Boykin went again into how the land was acquired, about the mortgage, the development. I informed Mr. Miller that I was acting as the Attorney for First Colony through a local counsel.

I think he even mentioned Mr. Robinson's name, that we had difficulty in respect to the loan on account of the pending indictment. Also, there was the same conversation about how Mr. Edlin thought he had been unjustly treated, the motivation for the case being in the Justice Department. And that he made it clear again that neither Congressman Boykin nor I were there to seek any favors nor did we want to interefere with the Department in its operation.

Q. Now, did Mr. Miller indicate that he had had an opportunity to read over this memorandum which you had sent to the Attorney General and which the Attorney General had turned over to Mr. Miller? A. No, it was a very short meeting and Mr. Miller stated that—I believe he had only been with the Department a short time—he had been busy. He had not had a [3502] chance to read the memorandum and he asked if Congressman Boykin and I would return at a later date.

Q. Now, the records of Mr. Miller's office indicate that you and Mr. Boykin met with him on May 3, 1961. What happened at that meeting? A. Well, at that meeting it dealt mostly with the Dranow matter. Although I had told Mr. Miller that I wanted to discuss the First Colony case, which I think the memorandum shows, that that was my request, but the discussion dealt with the Dranow matter, and we went in to quite detail on what information Congressman Boykin and I had respecting this situation.

Q. Now, the Court has said, Mr. Johnson, that you may refresh your recollection about this Dranow matter by looking at your exhibit No. 54 which is a memorandum you have testified to that you prepared.

Now, refreshing your recollection with that will you tell the jury what you told Mr. Miller about that Dranow matter? A. As I stated, Mr. Miller seemed to have a great desire for all the information that could possibly be given in regards to this Dranow matter. I had discussed the matter with parties of interest before. I had prepared this memorandum and I did give Mr. Miller fully all the information that I had.

Q. Well, tell the jury what you told him? A. I told him that Mr. Edlin had been contacted some time before by parties in Miami for a loan of $400,000, and it was alleged that that was in respect to the Sun Valley Development and that the party contacting him had referred to—

Q. Who was the party contacting him? A. Well, the person was Mr. Harold Shapiro who was a Miami Beach Attorney. If you do not mind, I have not seen this memorandum for some time and I just want to—

(The Court) If it does not refresh any present recollection, Mr. Doub, you can offer it in evidence, I suppose.

(The Witness) May I read it?

(The Court) Unless the Government objects.

(Mr. Tydings) If you recall the statements in there. He said he did not recall who told him and the whole thing we think is—

(Mr. Doub) It is perfectly immaterial whether Mr. Johnson had direct personal knowledge of what occurred in Miami with respect to loans and the purchase of this note, Your Honor.

(The Court) But he cannot use a paper to refresh his recollection if it does not refresh his recollection.

Now, if his recollection is refreshed, he can use it.

(Mr. Doub) Could we do this, Your Honor? Could we have a five minute recess and give Mr. Johnson the opportunity to read it carefully.

(The Court) I think this should be done before the Jury. The Jury ought to see what he is doing before he testifies.

(The Witness) I will proceed on if you want me to.

In the conversation I told him that Mr. Shapiro who was the Attorney and former Mayor, I believe, of Miami, or Miami Beach, had advised Mr. Edlin that a man named Ben Dranow and James Hoffa were involved in a subdi-

vision in Florida known as Sun Valley, which at the time was in receivership and that these parties as partners, owned other properties in Florida, that there had been a request for a $400,000 loan to the parties and that Mr. Edlin stated that he wanted to review the collateral that had been offered.

(The Court) Is this what you say you told the Attorney General?

(The Witness) No, what I told Mr. Miller.

(The Court) What you told Mr. Miller. This is what you told him?

(The Witness) As a matter of fact, it was more detailed. What I am trying to get refreshed here is—

(The Court) Did you give him this memorandum?

(The Witness) I sent him a memorandum and that was given to him.

(Mr. Tydings) It is already in evidence. Is that the one Mr. Boykin sent originally, the one that was dictated in your office?

(The Court) So what you sent him is in evidence. You are reading this paper primarily as I understand it. Now, what is this paper?

(The Witness) Your Honor, this is a paper that at the time there was likely to be litigation—in order to ascertain the facts, I prepared a detailed memorandum. I had this in my office. At the May 3rd meeting with Mr. Miller, Mr. Miller seemed to have an obsession as to what was in the memorandum, what I knew about Dranow about Mr. Hoffa. I then went into quite a lot of detail because it was fresher on my mind at that time than now, as to what had been told me.

Following that Congressman Boykin asked for a memorandum which I did give him and he sent to Mr. Miller on May 4, but the memorandum I sent to Congressman

Boykin was not as full as the information which I gave to Mr. Miller at our meeting on May 3.

(The Court) Now, you are entitled to testify to what you gave to Mr. Miller at that time, if you remember it. Now, if you do not remember it, you may use any papers which will refresh your recollection as to what you told him.

Now, do I understand it that the paper which you gave him a week ago would not refresh your recollection but that a paper which you prepared sometime later for some other purpose would refresh your recollection as to what you told Mr. Miller? Is that the basis on which he is using this paper?

(Mr. Doub) He testified that he prepared that after this meeting.

(The Court) He said he prepared it after this meeting for some other purpose.

(Mr. Doub) No.

(The Court) He said he prepared it for some other purpose. Was this prepared before?

(The Witness) This was prepared back in January, 1961 before there was any mention made of the Attorney General.

(The Court) Now, do you say that looking at this paper, you had this paper in your office and not at the Attorney General's office?

(The Witness) Yes, sir.

(The Court) I want to understand the purpose for which this paper is being used. Does this refresh your recollection of what you told Mr. Miller, or is it just information that you had in your office?

[3507] (The Witness) Well, the purpose of refreshing my recollection of what was told Mr. Miller on May 3 at the meeting in his office.

(The Court) What you are now saying is what you told Mr. Miller.

(The Witness) Yes, sir.

(The Court) And looking at this paper refreshes your recollection of what you told him then even though some of the things you say were not in the memorandum that you sent him, is that right?

(The Witness) Yes, sir.

(The Court) All right. He may use it for that purpose.

(The Witness) Continuing, the interest was as to the desire to borrow for Sun Valley, the $400,000. Mr. Edlin stated that he had reviewed the collateral which was a shopping center and other properties and he did not [3508] feel that there was sufficient collateral for the loan. Mr. Miller was quite anxious to ask what collateral was offered, stating that there was an investigation in respect to Mr. Hoffa dealing with certain alleged income tax violations. Also, at the meeting, he brought in the $100,000 loan that Mr. Dranow—not loan, but the sale of a $100,000 note which had been made to First Continental Savings and Loan, that there was quite a lot of discussion as to how that loan took place and how ultimately the Treasury note was discounted at a Bethesda Bank and the money secured on that note at that bank. In the discussion, what Mr. Miller wanted to know was the partnership if any, existing between Ben Dranow and Mr. Hoffa, and at the time of the negotiations of the $400,000 proposed loan, I told Mr. Miller that I had been told that this partnership had been affirmed by a meeting between Mr. Edlin and Mr. Hoffa in Washington, and in addition to the shopping center, there was offered also an office building known as the Fashion Mart Building, so that was generally what was told to Mr. Miller.

Q. Now, what was Mr. Miller's reaction? A. Mr. Miller was quite interested. He told me that there were grand juries meeting. He mentioned specifically in New Orleans, in Miami and possibly other areas. He wanted to know

whether or not Congressman [3509] Boykin and myself would talk to Mr. Edlin and to Mr. Robinson because in the conversation I brought out that Mr. Robinson had been present at one or more of the meetings dealing with the Dranow matter.

Q. Well, what, if anything, did you or Mr. Boykin reply? A. Well, in the conversation, I talked with the Assistant Attorney General, that Mr. Edlin was under indictment on a federal charge, and I distinctly told Mr. Miller that I thought it should be made clear that there would be no favor on the part of the Government in having him go to Florida, that he realized that it would be no benefit in his case, in this case. Mr. Miller wanted to make that clear also which I assured him that would be made clear, that it evolved in the discussion about the $100,000 note. Mr. Miller was concerned whether Mr. Edlin had received part of the proceeds of the note, that if he was a party to that transaction, it may have some effect on any testimony he may give before the Grand Jury.

I told him that I would ask and try to find out whether or not there was any part of the proceeds that went to Mr. Edlin.

Q. Now, after that meeting, what did you do to verify this? [3510] A. Well, I got in touch with Mr. Edlin. I told him that—I think Congressman Boykin was with me—that the Attorney General, or the Assistant Attorney General, Mr. Miller, was vitally interested in what information they had pertaining to the investigation, particularly in Florida, dealing with Mr. Hoffa; that Mr. Miller was concerned as to what implication Mr. Edlin had as to the $100,000 treasury note. Mr. Edlin replied that he had received no benefits from it. What proceeds had been received had been credited for the shareholders in First Continental Savings and Loan.

Q. Now, I show you what purports to be an office copy of a letter of yours to Mr. Miller dated May 9, 1961 and ask you whether you wrote the original of that letter to him? A. I did.

(The Court) Mr. Doub, are you going to offer the whole sheaf of papers there that you have?

(Mr. Doub) In the course of his testimony.

(The Court) Have they been shown to the other lawyers?

(Mr. Doub) I know Government counsel have seen them, Your Honor.

(The Court) Well, do you want to let your associates see them while you are asking about this one?

(Mr. Doub) I think, if we could take a five minute recess, we might save more time.

(Mr. Tydings) I think that may be a good idea. We may have seen them but we do not know which ones he has.

(A brief recess was taken.)

By Mr. Doub:

Q. Now, Mr. Johnson, I show you Johnson exhibit No. 9 which is a letter, which purports to be a copy of a letter from you to Mr. Miller dated May 9, 1961, and ask you to examine that letter and state whether you sent it. A. I did. This is my office copy.

Q. This reads:

"Dear Jack:

"Prior to leaving on Friday past, I tried to reach you by telephone but with no success. I have been able to secure information on the matter discussed in your office which should prove of considerable importance." What was the information to which you refer in that letter? A. At the May 3rd meeting Mr. Miller, the Assistant Attorney General, was much interested in knowing whether Mr. Edlin had received any part of the proceeds of the $100,000. I was to contact Mr. Edlin to determine whether he had received any part of that money.

Q. Now, I show you a letter from Mr. Miller addressed to you, dated May 15, 1961 and ask you if you received that letter? A. I did.

(Mr. Doub) I offer that.

(The Clerk) Defendant Johnson exhibit 101 marked in evidence.

(Defendant Johnson Exhibit 101 marked in evidence.)

[3512] (Mr. Doub) Johnson exhibit 101 dated May 15, 1961 from Herbert J. Miller, Assistant Attorney General, Department of Justice, addressed to Mr. Johnson.

"Dear Congressman:

"In reply to your letter of May 9, I tried to reach you last Saturday but apparently your office was closed and for which I must apologize. I forgot to call earlier in the week.

"I would, of course, be happy to discuss the matter in question with you at your convenience."

Now, after receiving that letter, what did you do?

(The Witness) I communicated with Mr. Edlin. I told him that Mr. Miller was anxious to know the facts pertaining to the $100,000 proceeds.

[3513] Also that Mr. Miller was quite anxious to know whether he and Mr. Robinson would voluntarily go to Florida to Miami and testify in the pending investigation against James Hoffa.

By Mr. Doub:

Q. When did you next meet with Mr. Miller? A. May 22, 1961.

Q. Now, at that meeting who was present? A. Congressman Boykin and myself, we arrived at 11 a.m.

Q. I show you certain papers and ask you what they are and whether you gave then to Mr. Miller at that meeting.

A. I did. I say the conversation opened in respect to the Dranow, or the Hoffa matter.

Q. And what other paper—what are the papers you gave him? A. I told first Mr. Miller, that I had been in touch—gave a report of Mr. Edlin and Mr. Robinson, that I felt there should be documentary evidence presented to show that Mr. Edlin had not received personally any share of the money.

After some delay, I received copies of the bank statement of First Continental Savings and Loan showing the deposit in full of $100,000 for the benefit of the general shareholders.

[3514] Q. Now, the $100,000 to which you refer, is that the proceeds derived from payment of the treasury note? A. That is the total proceeds from the $100,000 treasury note. Also a copy was given to me, a photostat of the ledger sheet of First Continental Savings and Loan showing that their entries also conform the receipt of the full amount.

Q. Now, state whether or not you gave photostatic copies of the bank statement and the ledger sheet to which you have just referred to Mr. Miller at that meeting? A. I did.

Q. And are these copies? A. They are additional copies.

(Mr. Doub) I offer them, Your Honor, collectively, as one exhibit. I suggest that they be marked Exhibits A and B.

(The Clerk) Defendant Johnson exhibit 102 marked in evidence.)

(Defendant Johnson exhibit 102 marked in evidence.)

By Mr. Doub:

Q. Mr. Miller's letter to you of May 15, 1961, Mr. Johnson, refers or states that he had telephoned you on Saturday, May 13, I show you Government exhibit 144, purporting to be a consolidated list of all telephone calls made to and from Mr. Miller's office and ask you if that telephone call which Mr. Miller wrote you he made on

that date is on that list? A. No, I do not see it on this list.

[3515] Q. State what, if anything, you told Mr. Miller as to whether at this—and I mean at this meeting on May 22, as to whether Mr. Edlin and Mr. Robinson were or were not willing to appear before the Grand Jury in Florida and testify? A. I told him they were rather reluctant to go but that they would go, and Mr. Miller then stated that he would arrange for someone from his department to interview them, and arrange the date on which they were to appear in Miami, and that he understood that they would go voluntarily without a subpoena.

Q. Now will you state whether, at this meeting, any reference was made to the land companies? A. Yes, it was entirely secondary because the interest was more in respect to Mr. Edlin and Mr. Robinson appearing. I told Mr. Miller to bring him up to date which I did at practically each of the meetings as to what was transpiring in the land development; that I was proceeding with foreclosure on the land development and that the sale—I do not know whether I told him what date—but that there would be a sale.

[3516] Q. You mean a public foreclosure sale? A. A public foreclosure sale. I may say, too, at that meeting, I think it was that meeting, he wanted to know what my interest was in the land company, and I told him I was the Attorney for the land company, and not only in Maryland but in Virginia.

(Mr. Tydings) Mr. Doub, I wonder, the Congressman is referring to some notes—I wonder if you would mind having them marked for identification, the notes he is referring to. The whole file there, because it may become pertinent, specifically those notes which he has been referring to.

(The Court) I think we can do like we did the other day. Just put them off on the side table, as he uses a paper to refresh his recollection, he puts it off on the side table.

(Mr. Tydings) Could we have it marked at this time, Your Honor.

(The Witness) My folder is marked "Attorney General."

(Mr. Tydings) There are some specific notes in there which he has been referring to which I would like to have marked for identification. He can tell Mr. Doub which ones he has been referring to.

(The Court) Let them be marked A and B.

(The Clerk) Defendant Johnson's exhibit 103 A and 103-B marked for identification.

(Defendant Johnson's exhibits 103-A and 103-B marked for identification.)

(The Witness) And also, Mr. Doub, the consolidated lists I have been referring to which are already in evidence.

(Mr. Doub) Is that Government exhibit 144?

(The Witness) Yes, sir.

(Mr. Tydings) You are using Government exhibits to refresh your recollection as to the dates and the time of the meeting?

(The Witness) Yes, sir.

(The Court) That is a copy of Government Exhibit 144, that is in evidence.

(The Clerk) Yes, it is.

(The Court) Unless Mr. Johnson has had something added to it. You have just the straight exhibit.

(The Witness) Yes, nothing added to it. I think there is some writing. That is Mr. Doub's writing. It is not mine.

(The Court) That is all right.

[3517] By Mr. Doub:

Q. You state you told him about the land companies, Mr.

Johnson. Will you state whether or not their names were mentioned or not? [3518] A. I know as to Charles County and I think I referred only to the tract as the tract in Virginia. I cannot say that I mentioned Leisure City at that time.

Q. When was the next meeting that you had with Mr. Miller? A. The meeting was on June 27—let me check.

Q. My notes indicate June 12. A. June 12, excuse me. June 12.

Q. That was three weeks later. Now, tell the jury what occurred at that meeting.

A. On the 12th, there was also a continuation of discussion in respect to Mr. Edlin, Mr. Robinson— there was discussion on the pending loan.

Q. Now, wait a minute. When you say Mr. Edlin and Mr. Robinson, what with respect to them? A. Their part in appearing before the grand jury in Miami.

Also discussion about the pending loan of First Colony participated in by First Continental, respecting land development.

Q. Now, what, if anything, was said by Mr. Miller as to what was in his file about Mr. Edlin?

A. During the course of the conversation, I was sitting at the desk with Mr. Miller.

Congressman Boykin was present and Mr. Miller had before him the file dealing with First Colony, I presume the other defendants, too, and he opened the file and remarked what—

[3519] (Mr. Genn) Object to this conversation. I have the same objection as previously as to Mr. Miller's testimony, * * *

(The Court) On what ground?

(Mr. Genn) On the grounds that I previously stated with respect to contents of a conversation in so far as—

that is, the contents of what was said or the contents of the file, or conversations about the contents of a file; I think I have indicated my objection to them. Purportedly for the truth of what was stated in those particular conversations.

(The Court) I do not understand what you mean "purportedly for the truth." Mr. Johnson is testifying to what was done by him in an effort to have an indictment reviewed.

Now, the issue, he has said that he was there, that that is what inaugurated this series of questions— this series of meetings. Now, the issue in the case is whether what was done there violated the statute or whether it did not. But the evidence of what happened there would certainly seem to be relevant if it was done for the purpose of either postponing the indictment against your client. Your client knew about it and the Court has held that there was or that there is evidence sufficient to go to the jury on the issue of conspiracy.

(Mr. Genn) Well, if the Court please, my objection was to the statements from the Government file which would suggest that there may be some truth on this in those particular statements, and in so far as it relates to the previous objection I have made when this issue arose. The conversations purport to suggest that what Mr. Miller was stating was an accurate fact.

(The Court) I did not understand Mr. Johnson was undertaking to vouch for Mr. Miller.

(Mr. Genn) I did not say that, nor did I suggest that by my objection.

(The Court) I do not understand your point, then. If you can make your point clear, I will try to rule on it. If you say that it purports to be offered for the truth of what was said, that is not my understanding of why Mr. Johnson is offering it—why Mr. Doub is offering it. It purports to be shown—

(Mr. Genn) It is in reference to what Mr. Miller says a government file stated and I think, if that is—

[3520] (The Court) If he said it in connection with what Mr. Johnson was trying to do in order to get an [3521] indictment against your client postponed, it is admissible against you.

(Mr. Genn) I have made my objection, Your Honor.

(The Court) I overrule it.

(The Witness) Sitting at the desk, Mr. Miller opened a file, stating that he had gone through the file of First Colony, also with respect to Mr. Edlin; that he did not know whether he should disclose to us the information, but in the review, he felt that, perhaps we should know what the report contained on Mr. Edlin.

We asked him what it was. He stated that—Mr. Miller stated—the report showed there were two and possibly three previous convictions.

By Mr. Doub:

Q. Of Mr. Edlin? A. Yes. Furthermore, that Mr. Edlin had been involved in a savings and loan association in Chicago known as "The Corona Savings and Loan Association."

Q. What was the reaction of Mr. Boykin and yourself to that? A. I think Mr. Miller answered that better than I could. He said that both Congressman Boykin and myself were greatly surprised and disturbed about that information.

Q. You mean when he testified here? [3522] A. That is what he testified to.

Q. Now, what did you or Mr. Boykin reply? A. We told Mr. Miller that it came as certainly a shock to us, that Mr. Edlin had been asked time and time again as to his past record. He had informed us that some years ago approximately 20 years ago, there was involvement in a criminal

matter, that since then there had been nothing, that it was not true of any dealings that he had had since or at that time; it was later I discussed it, but I told him that I had told him that Mr. Edlin had told me there was only that one conviction.

Q. What did Mr. Miller then say? A. Mr. Miller stated he had to rely on what was in his file, that if it was false and not accurate, he would like to know. If we could get the information that it was not accurate, that he would like to have it because the Department certainly did not want to have a false report in its file.

Q. Now, after leaving that meeting, what did you and Congressman Boykin do? A. Well, in a very few minutes we tried to get in touch with Mr. Edlin. Finally, we did locate him. We had him to come to Congressman Boykin's office. We confronted him with the information we had gotten from Mr. Miller.

[3523] The reply on the part of Mr. Edlin was that it was not true, that it was a part of the investigation conducted by the Postal Authorities which gave false information, that he could prove it was not true.

We asked him what proof he had, and in Congressman Boykin's office he asked if he could use the telephone. Before Congressman Boykin and myself he went to the telephone, he called Chicago on his credit card. He called a Mr. Meyer who was—as he told us—a probation officer in Chicago; there was some delay because Mr. Meyer had to be located. In a few minutes the call was completed and Mr. Edlin talked with Mr. Meyer.

Q. And did you hear Mr. Edlin's end of that telephone conversation? A. I was present at the conversation. Mr. Edlin stated that there had been reports of several conversations, that he asked Mr. Meyer whether that could be confirmed as not being true, that he knew Mr. Edlin.

After some one or two minutes, Mr. Edlin asked Congressman Boykin to come to the phone, then he asked Mr.

Meyer that is, Mr. Edlin asked Mr. Meyer to tell Congressman Boykin what was the true record of Mr. Edlin.

Congressman Boykin went to the phone and listened for I would say a minute or so.

[3524] Q. Now, after Mr. Boykin hung up, what did Mr. Boykin tell you he had said? A. I think all that Mr. Boykin did was listen as far as I can recall but he did tell me that Mr. Meyer had confirmed that Mr. Edlin had had only one previous conviction.

Q. Did Mr. Boykin ask Mr. Meyer to come to Washington? A. No.

Q. He did not? A. Not in my presence.

Q. Did you ask Mr. Meyer to come to Washington? A. Absolutely not.

Q. Did you talk to him on the telephone at any time? A. Not that I recall.

Q. When Mr. Boykin was on the telephone with Mr. Meyer, did he tell Mr. Meyer that he would pay Mr. Meyer's expenses to Washington? A. Absolutely not.

Q. Now, do you know whether Mr. Edlin later requested Mr. Meyer to come to Washington? A. No, I do not, but I know he came to Washington.

Q. You know he came? A. Yes.

Q. And who was with him when you first saw him? A. The first time that I saw Mr. Meyer was in my office in the early morning of June 15, 1961, and with him I recall, was Mr. Robinson and whether Congressman Boykin came with him or came in later, but Congressman Boykin was there at the time that Mr. Meyer was present.

Q. Did you pay or contribute to Mr. Meyer's expenses in traveling from Chicago to Washington and return? A. Absolutely not.

Q. Now, Mr. Miller testified that you and Mr. Boykin

brought Mr. Meyer up to his office and that was on what day? A. June 15, 1961.

Q. In your office before going up there with Mr. Boykin and Mr. Meyer, had you had any conversation with Mr. Meyer? A. I did. Mr. Meyer was in my office. I would say, oh, five or ten minutes the morning of June 15.

And there was a conversation.

Q. Did you ask him about Mr. Edlin's record? A. I did.

He stated that he had been a close friend of Mr. Edlin, that he had been assigned previously as probation officer and since his duties had ceased in that capacity, he had continued a very close relationship and then he proceeded to tell me of his personal knowledge that there had been only the one conviction.

Then he talked about the one conviction, how he had investigated that case and that the verdict had been secured on very questionable evidence. In fact, I think he stated that he was so disturbed about it that he reported to the Court and he was concerned about his job at one time.

Q. Now, when you and Mr. Boykin took Mr. Meyer up to Mr. Miller's office, did you introduce him to Mr. Miller? A. I did. I think it was stated we went to the Attorney General's office, that is, Mr. Kennedy.

We went straight to Herbert Miller's office, the Assistant Attorney General.

Q. And what happened after you arrived there? A. We arrived. Congressman Boykin, myself, Mr. Robinson, and I recall Mr. Meyer.

Mr. Miller was introduced either by myself or Congressman Boykin stated it was in reference to the report they had told us about, that Mr. Miller had told us about previously, that Mr. Meyer could give some information.

Mr. Miller stated he had an appointment, that he wanted the information, he was going to assign someone in the

Department and I think he named a Mr. Cassidy, who would handle the interview.

Congressman Boykin, myself, we both told Mr. Miller that we had committee meetings. We could not remain. We only stayed, I think, not over three or four minutes and returned to the Capitol.

Q. Now, did, Mr. Johnson, you ever see Mr. Meyer again after you left Mr. Miller's office? A. I did not see him again until he was in court a week or so ago.

Q. Is this an office copy of a letter you wrote to Mr. Miller the next day on June 16, 1961? A. Yes.

(Mr. Doub) May I offer it in evidence?

(The Clerk) Defendant Johnson exhibit No. 104 marked in evidence.

(Defendant Johnson Exhibit 104 received in evidence.)

(Mr. Doub) It is dated June 16, 1961, addressed to the Honorable Herbert J. Miller, Assistant Attorney General, Department of Justice.

"Dear Jack:

"I would appreciate your giving me a call after you had an opportunity to review the report submitted yesterday by the party from Chicago.

"Best Regards,

"Sincerely yours."

[3528] By Mr. Doub:

Q. Now, when was your next meeting with Mr. Miller? A. June 27, 1961.

Q. What occurred at that meeting? A. It was of vital interest to Congressman Boykin and myself as to what that report was pertaining to Mr. Edlin which also reflected on the First Colony and First Continental.

We went to Mr. Miller to secure information on the report dealing with Mr. Edlin.

Q. The written report which, you mean that Mr. Meyer had given Mr. Cassidy? A. The report that we were desirous of any report, to know whether or not there had been other convictions, other than the one which was some twenty or more years ago.

Q. What did Mr. Miller tell you? A. Mr. Miller stated that the report was a very detailed report. He told us that it contained only the one conviction which was some 20 years [3529] prior. He told us that he was convinced that was the only conviction.

Q. Do you recall anything else that happened at that meeting? A. Yes, I went again into my problem with the legal problem that I had for First Colony and First Continental in respect to the loan.

Mr. Miller was advised that that matter was still pending, the development had not gone forward and that I would like to discuss further just whether he had any suggestions relating to a solution of our problem.

Q. Well, now, I am not very clear from what you have said as to just what the problem was. A. The problem at the time that had developed, that in view of the indictment pending against First Colony and Mr. Edlin that difficulty arose for approval by FHA of the lending institution which in this case would have been one of them, First Colony and also FHA questioned the connection of Mr. Edlin with the Associations as further objection to approving the lending institution.

Q. Will you state whether or not there was any reference to the fact that First Continental Mortgage Company of Miami owned the Class B stock of those Associations? A. Well, in the discussion I went quite into detail [3530] with Mr. Miller because I had understood that he had done corporate work.

I told him that, as attorney, I was anxious to close this loan. It also meant a lot to the community of Southern Maryland.

Congressman Boykin was anxious as well. So, in the discussion Mr. Miller inquired as to the makeup of the Associations as to the stock interest.

I told him that both First Continental and First Colony Class B stock was owned by First Continental Mortgage Company, that the A stock was owned by the shareholders of the two institutions.

We went then into discussions as to who owned First Continental Mortgage Company. I told him that, as far as I knew, it was the Edlin family.

At that juncture, Mr. Miller either suggested there was a solution or it did come out in the conversation. But the idea was advanced.

Q. By whom? A. Well, I may be mistaken but I certainly remember Mr. Miller saying that it could be solved by a voting trust, that if the Class B stock, which was owned by First Continental Mortgage Company, was placed in a voting trust, then the feeling that, and legally, there would be no question as to ownership by Mr. Edlin or the [3531] activities of either association, and I brought that out and called it to the attention of Mr. Robinson and I brought it to the attention of Mr. Edlin after the meeting.

Q. You told them of this suggestion? A. Yes.

Q. At that time had Mr. Edlin or Mr. Robinson gone to Florida to testify before the grand jury there? A. I think they had gone down, I may be mistaken either during—I think during June, if I am not mistaken, had voluntarily gone down and when they arrived, there was some mixup and they did not testify.

Q. They were not called? A. No.

Q. Now, when was your next visit with Mr. Miller? A. August 7, 1961.

Q. Do you have any recollection of that meeting? A. Undoubtedly—to the best of my recollection, because it could have been either this meeting or the one before, but it dealt with the visits of Mr. Robinson, and Mr. Edlin to Miami to appear before the Grand Jury.

It dealt with that, that they had been down and through a mixup they had not been called.

Q. Was anything else talked about at that meeting? A. Yes. At that meeting—I want to conclude on the [3532] other—that they did want Mr. Edlin and Mr. Robinson to go back again before the Grand Jury and asked whether or not I would contact Mr. Edlin and Mr. Robinson to ascertain if they would make another appearance.

Q. Who asked you to do that? A. Mr. Miller.

He stated that, if they would agree to go back, the necessary arrangements would be made.

Then at that meeting I recall another thing that was rather unusual. In talking with Mr. Miller, in which he so testified, he said "Congressman, I would like to discuss personally with you some of the features of the pending First Colony case as well as the Edlin matter; can you come over to my office either a weekend or late some afternoon at your convenience, when there would be no disturbance—just the two of us can discuss this case?"

And I made reference to whether Congressman Boykin should come along. He told me, no, just the two—that is just for me to come alone.

I made the reply that I would be happy to comply with his request.

Q. Now, what happened after that meeting? A. After that meeting the first opportunity I had to go was on August 24, I telephoned and told him that [3533] I would be available on the 24th late in the afternoon, that a weekend did not suit me because of the engagements I had in the

District, I made it a policy to be in the District on weekends.

Q. You mean your Eastern Shore District? A. Yes.

Q. What was the time of that meeting on August 24, was it in the late afternoon or not? A. At 5:28 p.m., approximately 5:30 in the afternoon.

Q. Now, tell the jury what happened at that meeting? A. At the meeting Mr. Miller had his file dealing with the pending cases. He began a discussion of the different counts in the indictment. He asked for a great many factual points.

I gave the best answers that I could. He stated that there had been a review of the case, that someone in his department—gave me his name—I do not recall, had looked over the case and that they felt, or this party felt that it was a good case. In other words, a case that the Government should go forward with.

Mr. Miller did not indicate that he took that position but continued to discuss on the merits of the case the different counts in the indictment. It dealt primarily with the question of false advertising, [3534] particularly as to a current dividend where the company was alleged to have advertised a current dividend.

The question was whether they had earned that dividend and whether it was misleading to the public.

That discussion continued for some period of time. Finally, I told Mr. Miller that many of the questions dealt with matters that I did not know about. One feature of the indictment which Mr. Miller has testified to, and I concur, dealt with the Cassell transaction, that is, the development in Southern Maryland, whether or not there was a washed out transaction at the time of the original loan.

Mr. Miller stated he had some understanding or he felt that the First Colony did not have on deposit in their account sufficient funds to honor the checks that were issued

originally on that loan, that it was a washed out transaction.

I told him I did not know; I would get what information I could and give that to him.

So after some discussion, I told Mr. Miller that I just did not know enough about the case, that there were attorneys representing these parties of record; I would suggest a conference with them and to have a further discussion with those attorneys, to which Mr. Miller said that "I think that is a good idea."

[3535] That closed the meeting on August 24th.

I may say further now, sir, there seemed to be an obsession in each of the meetings dealing with this Hoffa investigation. We got again into the Dranow matter.

He asked me what was being done in respect to the case that had been docketed for the return of the $100,000.

I told him depositions had been taken, particularly the principal, Mr. Marcus in New York.

Mr. Miller said, "Can I get a copy of that deposition?"

I told him I would get that for him, which later I did send him.

Q. Now, I show you what purports to be a copy of a letter from you to Mr. Miller of August 29, 1961 and ask you whether you wrote him that letter? A. I did write him and that is my original copy of the letter.

(Mr. Doub) I would like to offer it.

(The Clerk) Defendant Johnson's Exhibit 105 marked in evidence.

(Defendant Johnson's Exhibit 105 marked in evidence.)

(Mr. Doub) Members of the Jury, this letter is dated August 29, 1961, addressed to the Honorable [3536] Herbert J. Miller, Assistant Attorney General.

"Dear Jack:

"A copy of the depositions as requested will be delivered to you this week as some are now being typed in Baltimore.

"When those depositions are scheduled, I will so advise you.

"Incidentally, I followed through on the two phases which gave me some concern at our recent discussion. The enclosures are self-explanatory.

"I certainly enjoyed our time together on Thursday past.

"Sincerely,

"Thomas F. Johnson."

By Mr. Doub:

Q. Now, did you send him a copy of the depositions with this letter, or later—it says "a copy of the depositions requested will be delivered to you this week"? A. It was later, because they had to be typed and I had to get a copy from New York or Baltimore but it was sent on the Dranow matter.

Q. You did send that to Mr. Miller? A. Yes, sir.

Q. Now, the second paragraph reads:

[3537] "Incidentally, I followed through on the two phases which gave me some concern at our recent discussion. The enclosures are self-explanatory."

Now what were you talking about there and what were the enclosures? A. The enclosures were the bank statement of First Colony showing that on the date they issued their check to Mr. Cassell, or under the Cassell loan, that there were sufficient funds on hand to meet that check or obligation.

I think, also, there was a ledger sheet with it.

(Mr. Doub) I would like for the Government to produce those enclosures if you have them.

(Mr. Tydings) We do not. We made a search for them because we considered introducing that letter in our case and we could not find the enclosures. We know that they were sent and as Mr. Miller described them in his testimony, I think they were, as Mr. Johnson indicated, the photostats of the bank statements of the First Colony bank deposit in Bethesda, which indicated the exact bank balance on the day of the washout transaction so I think we are talking about the same thing but we do not have the photostats and we have made a search for them. If we had them we would have put them in.

(Mr. Genn) If the Court please, I am going to object to that as characterizing the testimony of a particular witness.

(The Court) What do you want me to do?

(Mr. Genn) Your Honor, I think a United States Attorney should be instructed not to comment upon the evidence. This is something that has persisted throughout this matter. There is no purpose in it. The testimony of the witness is the matter before the Court.

(The Court) I thought Mr. Tydings was trying to help Mr. Doub by conceding a point.

Mr. Tydings, I guess you had better keep quiet and let Mr. Doub prove his case the best way he can, if the objection is being made for that.

By Mr. Doub:

Q. Now, Mr. Johnson, was it your impression upon leaving that meetig with Mr. Miller on August 24, 1961, that Mr. Miller had finally and definitely determined to go forward with the prosecution of the Edlin case? A. I did not get that understanding.

Otherwise, I would not have carried on with the additional information.

Q. When was your next meeting with Mr. Miller? A. September 14, 1961.

Q. Who was present and what was its purpose?

(The Court) Before you get into that, if the rule is going to be—as Mr. Genn wants it to be—that Mr. Tydings is not to make any response, then I will expect all counsel for the defendants to observe the rule strictly in making requests on the Government to produce documents, and I think you do not want to do that. I suggest you talk it over at lunch among yourselves as to whether you want to have the informal way of asking the Government for documents that Mr. Doub has been doing without any criticism from anyone.

(Mr. Genn) Your Honor, I did not object to that. I objected to the characterization of the transaction by the United States Attorney. I have no objection to the comment with respect to trying to obtain documents. I am simply objecting to characterization of evidence that has been given by a witness. I think that was not an accurate statement of what I commented at all.

(The Court) No, but you cannot have the bitter without the sweet, or the sweet without the bitter. You want Mr. Tydings not to say anything, if that is so, then you observe the rule.

(Mr. Genn) I did not state that he should not say anything, Your Honor. Or we should not comment and try to hurry the matter along to get documents. It is just the additional fillips that are added to that particular statement that I object to. I would like to move this along just like everybody else would.

(The Court) All right.

[3540] By Mr. Doub:

Q. Mr. Johnson, what was the purpose of the meeting on September 14 with Mr. Miller? A. Mr. Doub, that meeting primarily was for the same thing that we discussed at

every meeting dealing with the Dranow matter as to Mr. Edlin and Mr. Robinson returning to Florida to testify in the Hoffa investigation.

Q. Now, why should there have been any problem as to that? A. When it developed that Mr. Edlin had been contacted, in response to the request of Mr. Miller, Congressman Boykin and myself had asked if they, Mr. Robinson and Mr. Edlin, would go back to Florida.

Mr. Edlin told us that he would not go back to Florida. We asked him why. He said there had been threats made against his life, not only as to his own life, but that of his wife, and I think that is the "barking dog" episode which Mr. Miller testified about that Mr. Edlin also felt that there was too much risk of Mr. Edlin returning to Florida.

[3541] Q. What did Mr. Miller say? A. Mr. Miller was, as always, so gracious and said that he felt that it should be investigated.

He wanted to know the ones that had made the threats. What the nature of the threats was; that he certainly would conduct an investigation.

Mr. Miller assured us that, if Mr. Edlin and Mr. Robinson would return, they would have adequate protection in Miami before the grand jury.

Q. Did you and Mr. Boykin report what Mr. Miller had said to Mr. Edlin? A. Yes, I may conclude that in the conversation, Mr. Miller thought it might be advisable to issue a summons for their appearance as I understand, or had issued one or was going to. I do not recall. I know one was issued, but we conveyed to Mr. Edlin and Mr. Robinson that they would be given protection and they agreed to go and did appear, as I was told.

Q. On what date? A. September 21, 1961, before the grand jury in Miami.

Q. Page 1690 of the transcript, Mr. Johnson, the Attorney General said that at his meeting on October 17 with Mr.

Boykin, they had discussed that Mr. Edlin was available and willing to testify, which suggests that he had not testified at that time. Does that statement of the Attorney General cause you to wish to change your testimony? A. Mr. Doub, Mr. Edlin and Mr. Robinson appeared on the 21st of September. I think what you allude to that the Attorney General, following the 21st of September meeting, was still interested in further information from Mr. Edlin and Mr. Robinson and spoke of a re-interview and also thanked Congressman Boykin for the great contribution that had been made to, in respect to Mr. Edlin and Mr. Robinson.

Q. Now, it is undisputed that you went to see Mr. Miller on Sept. 21, 1961 and I ask you whether the subject of discussion related to the Edlin case? A. To the best of my knowledge it did not, and if I am not mistaken, that was the meeting in which I had been told that Mr. Tydings had been spreading rumors as to Congressman Boykin and myself trying to put pressure on the Attorney General in regards to the Edlin case.

I had been before the Attorney General before. I felt that I should go before Mr. Miller. I made an appointment. I went to see him, and in the meeting I told Mr. Miller what was being said by Mr. Tydings or allegedly being said.

I told Mr. Miller that he certainly knew there was no favor asked at any time in respect to this case, only a request of a review on the merits. That we had always made it clear, we did not wish to interfere with the Department of Justice.

Mr. Miller replied, "of course you always made it clear."

Just like he did on the stand here in this Court. Then Mr. Miller voluntarily said, "I will call Mr. Tydings and straighten it out."

I did not ask Mr. Miller to call, but he told me at the meeting he would call Mr. Tydings and would straighten out such a false rumor if it were true.

So that meeting, I presume is the meeting—I may be confused as to what date, but I think that was the meeting of the Tydings episode in which nothing elese was discussed except a correction of a false alleged rumor.

Q. Now, thereafter did Mr. Miller tell you whether he had or had not telephoned Mr. Tydings? A. He did. I was very anxious because in politics you live an entirely different life. You are subject constantly to rumors and accusations and it was getting, of course—coming into an election year. I called Mr. Miller and I was told he had contacted Mr. Tydings and according to Mr. Miller, I think he told me that Mr. Tydings and, according to Mr. Miller, I think he told me that Mr. Tydings told him he had not made such a statement or something to that effect.

Q. Now, did you have any other meeting with Mr. Miller in 1961? A. I had the one and final meeting on October 16, 1961.

Q. Who was present? A. Congressman Boykin and myself at 5:30 in the afternoon.

Q. What did Mr. Miller tell you at that meeting? A. The purpose was to determine whether there had been a final disposition of this case.

I had been informed by Mr. Robinson that Mr. Miller had had conferences with certain attorneys in respect to the Edlin case, the First Colony and we wanted to know, or I wanted to know whether there had been a final determination of this matter. Still the loan was pending, still there was a problem. In the meantime we had several New York interests, prior to that who wanted—

Q. What did Mr. Miller say at that meeting—had he made a fiinal decision? A. Mr. Miller told us at that meeting that there had been a final determination, they felt they had a strong case and they would go forward.

Q. Now, after Mr. Miller told you that, did you ever see him again in 1961? A. I did not.

Q. Now, Mr. Miller's telephone records indicate that there was a call to Mr. Miller from you in the late afternoon on October 23. What was the purpose of that call? A. October 23, I think the call was made at 5:30. That was the day before I was leaving with the Foreign Affairs Committee to be gone for the remainder of the year. I called Mr. Miller to say "Good-bye," that I was leaving. I also called many other friends in the various departments to also say, I am departing from Washington, and I left the next morning at 8 a.m.

Q. In the course of your two meetings with the Attorney General, and your later meetings with Mr. Miller, did you make any misrepresentations of any kind to them? A. No.

Q. Did you or Mr. Boykin say anything in those meetings which you deem to be improper, an impropriety? A. We did not.

Q. Did you ask for any special favors of the Attorney General or Mr. Miller? A. We did not other than asking that the case be reviewed on its merits.

* * * * * *

[Tr. 3555]

By Mr. Doub:

Q. I will ask you this question, Mr. Johnson. At most of these meetings which you had with Mr. Miller, was most of the time spent talking about the Edlin First Colony case? A. I would say not. I would say that more time was spent in respect to what we term the Dranow matter, in respect to the investigation dealing with James Hoffa.

Q. Now, were you compensated by Mr. Edlin, First Colony, First Continental or by anyone else, for your visits to the Department of Justice? A. Absolutely not, not by any of those or anyone else.

Q. Did anyone promise you any compensation with respect to any one or all of these visits, Mr. Johnson? A. No one promised me for any one or all of the visits.

Q. Did anyone suggest to you that you would receive any personal benefit or advantage if you made those visits? A. They did not.

Q. Did you, in fact, Mr. Johnson, benefit directly or indirectly from those visits to Justice? A. I did not.

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[Tr. 3558-3560]

Q. Mr. Johnson, did you enter into an agreement or conspiracy on or about April 1, 1960, with Mr. Edlin and Mr. Robinson or either of them to defraud the United States of any of its rights of any kind? A. Absolutely not.

Q. Did you enter into an agreement with Mr. Edlin and Mr. Robinson or either of them at any time to defraud the United States of its rights? A. Absolutely not at any time.

Q. Did you enter into such an agreement with Mr. Edlin and Mr. Robinson and Mr. Boykin for such a purpose at any time? A. I did not, and it seems as ridiculous as the others.

Q. Did you enter into an agreement at any time with Mr. Edlin and Mr. Robinson or either of them to assist them in connection with any alleged vendetta between State savings and loan associations and Federal savings and loan associations? A. I did not.

Q. Did you agree with Mr. Edlin or Mr. Robinson or with anyone else to make the speech of June 30, 1960, for compensation? A. I positively did not.

Q. Did you agree with Mr. Edlin or Mr. Robinson or either of them that—well, strike that.

Did Mr. Edlin or Mr. Robinson or both of them or anyone else promise you any personal benefit if you would make that speech of June 30, 1960? A. They did not, either one of them.

Q. Were any of the checks which you have testified you received in this case paid to you in connection with your

visits to the Department of Justice? A. Not one check. Not one penny was paid for that purpose.

Q. Was any part of any check given to you for such a purpose? A. Not one part.

Q. Was your office building in Snow Hill leased by you to First Continental to neable you to receive a concealed payment from First Continental of $800? A. Absolutely not, and like the others, as to alleged concealment, here is a building with two sides, large signs on the building, a telephone put in the building. A branch office was listed on the company's stationery to be distributed. There was an employee to be taken to be trained.

Q. Did you receive the checks in evidence from Mr. Robinson in order to conceal the fact that you were doing legal work for the savings and loan association? A. I did not, and it is just ridiculous, because the larger checks were from the First Continental Savings and Loan Association in respect to the Charles County and Leisure City escrow account.

Q. Did you conceal from a partner that you had received these checks for legal services that are in evidence?A. The first thing, I had no partner in Snow Hill. I did not conceal. Mr. Lankford was on the stand under oath and stated how ridiculous such statement or assumption was.

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(Vol. 30):

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(Vol. 31 [3869]) By Mr. Marion:

Q. Congressman, I show you what purports to be a two page letter with two attachments, apparently on your stationery to the Honorable Thomas B. Finan and ask you if that is your signature on page 2?

(Mr. Doub) What is the date of that?

(Mr. Marion) It bears the date of January 10, 1962.

[3870] A. Yes, that is my signature.

(Mr. Marion) Now, if Your Honor, please, I wish to offer this in evidence.

(The Court) Mr. Genn, it seems to be a fairly long letter. Perhaps you and Mr. Robinson can read it together, as Mr. Williams and Mr. Doub have been reading it together.

(Mr. Genn) May I approach the Bench, please?

(The Court) Do you wish to object to it?

(Mr. Genn) Yes.

(The Court) All right.

(At the Bench.)

(The Court) What is your objection?

(Mr. Genn) I object, Your Honor. I think this gets into—first of all, I do not know the relevancy of what, is this attached transcript supposed to be of a hearing before Mr. Sears, and it has been my feeling that the Government has consistently been getting into what Your Honor stated was not going to be an issue in this case and that is the savings and loan situation. I think he could testify without the document.

(The Court) What is the objection?

(Mr. Genn) I think it is prejudicial.

[3871] (The Court) To your client?

(Mr. Genn) Yes.

(Mr. Robinson) I would like to call this to the Court's attention.

(Mr. Genn) I do not think it is sufficiently material to be admitted in evidence for this purpose, either, Your Honor. I think it is prejudicial.

(The Court) You have not heard the purpose for which it is being offered.

(Mr. Genn) They just offered it in evidence.

(The Court) It is offered to contradict—is it not?

(Mr. Tydings) He told another story to the Attorney General and another story to the Grand Jury.

* * * * * *

[3872] (In open court.)

(The Court) The Court will admit the letter as against the defendants Johnson and Boykin only [3873] since I understand neither of them made any objection to the letter. The letter will not be admitted in evidence against either Edlin or Robinson.

I instruct the Government not to read again the letter of July 1, 1960 which was attached to the letter from Mr. Johnson to Mr. Finan but merely to note that a letter, which is exhibit so-and-so and already read to the jury, was attached to the letter and I particularly instruct the jury that the Court is admitting the portion of what is called "A transcript of Hearing," Page 17, which is an exhibit or an attachment to the letter from Mr. Johnson, not to prove the truth of anything stated in the transcript which I believe the parties have agreed was a statement made by an assistant attorney general of the State of Maryland. This statement is not being admitted and you are not to consider it as proof of any fact contained in the statement of the Attorney General but merely so that you may understand what it was that called for or that produced the letter from Mr. Johnson to Mr. Finan which is being admitted in evidence.

With those limitations, the documents may be marked Government Exhibit 175.

(The Clerk) Government Exhibit 175 marked in evidence.

[3874] (Government Exhibit 175 is admitted in evidence.)

(Mr. Marion) Members of the Jury, the portion of the transcript of hearing which is enclosed as an attachment to the letter reads as follows:

"Now, if Your Honor please, we also find that Mr. Edlin, having had certain legal difficulties, has seen fit to use the Association's sums and funds to pay for his legal expenses and we are able to show that the Association has so far in 1961 on, an account called 'Legal Services—Special,' paid out a sum of $61,488.

"Now, part of that money, Your Honor, has been paid to a gentleman named Mr. Robinson who we have just advised you is a vice president of this association, and in addition, certain of these sums have been paid to a firm of Johnson & Johnson, to L. Caudle, Lamar Caudle, and others who have serviced Mr. Edlin."

Now, the letter is on the letterhead of the Congress of the United States, House of Representatives, letterhead of Thomas F. Johnson. It is addressed to the Honorable Thomas B. Finan, State Law Department, Mathieson Building, Baltimore, Maryland.

[3875] "Dear Tom:

"I cannot tell you how unjust and incorrect were the remarks of your office at the recent hearing in Montgomery County, dealing with the First Continental Savings and Loan Association. Attached is a copy of that portion of the transcript which by innuendo my firm is supposed, in some vague way, to have been engaged in some nefarious dealing with the association and especially with one J. Kenneth Edlin.

"I personally entered the picture of this entire situation at the request of my good friend and colleague, Congressman Frank Boykin. In connection with his real estate holdings, comprising some 13,000 acres, my firm and other legal associates were engaged to assist in some of the complex legal ramifications. Suffice to say, my firm acted as counsel for two land corporations which had been founded

through the law office. For the work performed over a period of time, the law firm of course received nominal legal fees, and by communications in our files, these fees together with engineering and other costs, were to be paid from an escrow account at First Continental secured by a first mortgage on portions of the real estate. As I found the legal work required of my firm consumed more time [3876] than I could spare from my Congressional duties, I turned over a large portion of the work to attorneys in Virginia and Maryland, compensating them from the fees that had been paid my firm from the escrow accounts. Knowing that the subject matter is a political football in our State, certainly, you should have contacted me, as you must have known there was a proper explanation.

"Then next, the uncalled publicity emanating from our Insurance Commissioner, Mr. Sears, should have told the press that the one or two meetings I had with him were perhaps a year or more ago, and that the case had been referred to our office by a Chicago attorney. He should have further stated that when he advised that the Life Company in Illinois could not qualify under the grandfather clause, I so notified clients and the matter was closed. The one or two conferences with the Commissioner were the beginning and the ending of the entire transaction, and no fee ever received.

"Naturally, the situation greatly disturbed me, and I have no choice but to take the case directly to the people. At an early date I hope to have television time, as I feel the people of the Eastern [3877] Shore are entitled to know the precise circumstances under which I had any dealings with the parties mentioned. You may be assured that on these radio talks and television speeches and other releases, I shall continue to fight as a loyal Democrat.

"With kind personal regards, I am

"Sincerely yours,

"Tom"

/s/

"Thomas F. Johnson, M.C."

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(Vol. 32 [4053]) Q. Congressman, now you testified on direct examination, as I understand, and you correct me if I am wrong, that your original purpose of going to see the Attorney General in March of 1961 was to enable him to review the First Colony case on its merits to determine whether the case had merit or not? A. Basically, that is true.

Q. And is it not a fact that when you were first interviewed by the FBI on January 10, 1962, that you told the FBI agents who interviewed you that the First Colony mail fraud case was never discussed with the Attorney General at the time of your visit on March 25? A. If I did, it was not correct.

Q. You would not deny that you told them? A. No, but, as I say, if I did, it was not correct.

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[4054] By Mr. Marion:

Q. Did you testify as follows on September 25, 1962 before the Federal Grand Jury, beginning on page 79:

"Q. What would you say was the purpose of your going to see the Attorney General, the real purpose? A. To look into the whole matter and investigate.

[4055] "Q. Look into the whole matter of what? A. First whether or not the reports that Justice had were correct reports on Edlin.

"Q. On Edlin? A. Yes. Whether or not he had—which we had a copy there of two previous convictions instead of one in connection with some savings and loans in Chicago. I believe the Corona, which was a bad report. How serious the present situation was, and whether or not these were matters that should prevent FHA from proceeding with the approval of the lending institution, and particularly, whether or not Mr. Edlin was connected with First Continental. May I say at this point, Mr. Edlin, of course, always made an issue that there was some pressure group preventing him and had means of preventing him from this development there and we, frankly, asked and explained on that, whether or not there had been any outside interference.

* * * * * *

[4074] Q. Was it correct that you did not tell the Attorney General whom you represented? [4075] A. I told the Attorney General that I was representing through Mr. Robinson the lending institutions. That was First Continental and First Colony. Later I confirmed by letter of March 25th that First Colony was the lending institution.

* * * * * *

A. I told him that I was interested as attorney for the lending institutions; that I wanted to help Maryland. It meant a lot to Maryland, and furthermore, that we had been told that there was merit to the request for the review.

* * * * * *

[4076] Q. Let me ask you if you testified as follows before the Federal Grand Jury, beginning on page 73:

"Q. There came a time in 1961 when you either alone or accompanied by Congressman Boykin or Mr. Robinson had occasion to visit the Department of Justice, is that right? A. There was.

"Q. And will you explain to the jury the circumstances of that? A. Yes. I am very happy to. One, and perhaps the main problem to arise at the time of the loan negotiation, we have gone into the Desser & Garfield, where they were asked, they were to borrow money for this development from First Continental. The problem arose to secure FHA approval. I may say that land planning [4077] and site location had to be approved by FHA, but more important was approval of the lending institution. In this case it was First Continental Savings and Loan Association, and without such approval, why, any development, of course, in this case was virtually hopeless. Congressman Boykin thought that there would be no difficulty in respect to FHA. He suggested—and I am referring to notes which I have here on it—that a Mr. Prince, a gentleman I think I have met—I don't know him too well—and another gentleman whose name I do not recall, attend to the securing of the approval of FHA.

"Congressman Boykin later told me that FHA just would not approve First Continental Savings and Loan, as it was not under State regulation. After further inquiry it seemed that the real objection was a bad report on Mr. Kenneth Edlin as to pending violations, past violations, and that he was connected with First Continental Savings and Loan Association.

"Q. At this time did you realize Mr. Edlin was under indictment? A. I think we at this time probably had gotten to that when we got that report there on that.

"Q. This was approximately in March of 1961, approximately March?

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[4144] CROSS EXAMINATION

By Mr. Genn:

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[4145] Q. Now, you indicated, I believe, that you informed both in your memorandum to the Attorney General and directly in the conversation that you were acting as an attorney when you made those visits, is that correct, to the Department of Justice? A. That is correct.

Q. Did you so inform Mr. Edlin that you did act in that capacity and told Mr. Edlin that that was the capacity in which you acted when you made the visits? A. I told Mr. Edlin at all times that I was not representing him. I had made known as to my representation of First Colony through Mr. Robinson. Also, on one occasion Mr. Miller asked what interest I had in Charles County. I think I related to Mr. Edlin and Mr. Robinson both that I replied that I was an attorney.

Q. And you did indicate to them in other words, that you told the Department of Justice and the Attorney General that you were there as an attorney. You did not refer, of course, specifically as an attorney for Mr. Edlin, is that correct? A. Yes.

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[TR 4168-4169]

WILLIAM L. ROBINSON

DIRECT EXAMINATION

By Mr. Doub:

Q. Mr. Robinson, you are a defendant in this case? A. Yes.

Q. Where is your residence? A. Miami, Florida.

Q. Where were you educated? A. In Miami, Florida, with the exception of one year at the Citadel at Charleston, South Carolina.

Q. Did you go to college? A. I did, sir.

Q. Where? A. University of Miami for my law degree, and the majority of my undergraduate work. And, as I said, one year at the Citadel at Charleston, South Carolina.

Q. You have been admitted to the bar of what state or states? A. To the bar of Florida, of course. The Federal District Court in Florida; the Court of Appeals and the Federal Court for the 5th Circuit, and the District Court here in Baltimore.

Q. What year were you admitted to the bar? A. 1949, sir.

Q. Have you practiced law since that time? A. I have, sir.

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[TR 4173-4178]

Q. Did there come a time when you became counsel for First Continental Mortgage Company of Miami? A. Yes, sir. First Continental Mortgage Corporation is the correct title.

Q. When was that? A. I had had some relationship with that corporation, I believe, as early as 1958, but a close relationship began in approximately November of 1959.

Q. Did there come a time when you became also general counsel of First Colony Savings and Loan Association? A. Yes, sir. I would say that I started serving First Colony actually in late November of 1959. Early in 1960 I would say my position was such that I was general counsel for the corporation.

Q. Now, when did you first have a connection with First Continental Savings and Loan Association? A. A little later in 1960. The Corporation commenced business on, I believe, the 12th day of May, 1960, is my best recollection, and I participated in some of the activities leading to its opening. Probably commencing in early April of 1960, and

I would say that I was just general counsel from the day it commenced business.

Q. Now, from May, 1960 to the end of 1962, were you the general counsel of these two savings and loan associations—in fact, all three companies? A. Yes.

Q. You were? A. Yes.

Q. When did you first meet Mr. Johnson? A. I am not absolutely certain. I can not remember whether my first trips to Washington were in December, 1959, or whether they commenced in January of 1960. My first contact with Mr. Johnson had to do with a proposed loan from First Continental Mortgage for the construction of a bridge on an area as best I can recall, Assateague Bay, I believe is the correct pronunciation. I referred to correspondence, and I am sure my correspondence in that it is dated very early in 1960, is correct.

These negotiations in regard to that as a matter of fact, spread over a substantial period of time and prior to preparation for this trial and examination of my correspondence, my best recollection had been that it was around July, which was when we completed those negotiations but they actually extended for a substantial period of time.

Q. You mean July, 1960? A. Yes.

Q. And when you say "completed," do you mean terminated—the negotiations? A. I mean terminated, yes.

Q. In other words, they failed? A. That is correct, sir. I am not sure. That was completely clear, sir. I may have gone too far. I met Mr. Johnson at the very beginning of those negotiations. My first contact in regard to the Assateague Bay was at a meeting with Mr. Johnson and a Mr. Diggs and also with Mr. Edlin.

Q. When did you first meet Mr. Boykin? A. January of 1961. I cannot give you the exact date. My best recollection would be that I personally met Mr. Boykin about the middle of January.

Q. Now, I believe that some Government witness testified that you were present at a luncheon at the Congressional Hotel, which was attended by Mr. Marshall Diggs and Mr. Edlin and Mr. Johnson, and perhaps Mr. Rains—I am not sure. Did you attend such a luncheon?

(Mr. Tydings) If Your Honor please, I would like to object to that question. No. 1, I do not think it suggests an answer, and I do not think the answer is factual.

I think Mr. Doub had better check his testimony on what witness and what he said.

(Mr. Doub) I will withdraw the question and just ask him this.

(Mr. Tydings) If you will tell us which witness, and when he said it, we will check it for you but that is not my recollection and I just wanted to make sure.

(Mr. Doub) I thought someone had testified to that.

By Mr. Doub:

Q. Were you present at a luncheon in May of 1960 at the Congressional Hotel which was attended, among others, by a Mr. Heflin, Mr. Edlin and Mr. Marshall Diggs and Mr. Johnson? A. No, I was not. At the time of that meeting I cannot recite the date now, but the subject matter has come up before with me. At that particular time I was in Hartford, Connecticut, negotiating the settlement of a domestic relations case.

Q. Now, it is undisputed that on June 30, 1960, Mr. Johnson made a speech upon the floor of the House of Representatives or inserted the speech in the Congressional Record which has the same effect, and I ask you this question: Will you state whether or not you requested Mr. Johnson to make that speech? A. No, I did not.

Q. Did you ever discuss that speech with Mr. Johnson before he made it? A. My best recollection is that I did not, sir, but I am not absolutely certain for the reason that I heard Mr. Heflin's testimony. He testified—and I

am sure that it was to the best of his knowledge, truthfully, that I went with him to a Mr. Johnson's office in regard to delivering some materials. I, frankly, do not remember such an occasion but I would not want to deny that it happened.

Q. Now, let me ask you this. Did you ever send, deliver or mail to Mr. Johnson or to Mr. Buarque, his Administrative Assistant, or to any one in his office, any drafts of a speech? A. No, sir.

Q. Did you ever do that with respect to any materials for incorporation in a speech? A. I am sure I never mailed any, sir. In view of Mr. Heflin's testimony, I am not absolutely positive that I was never a party to anything there. But I am sure I did not send anybody mail, sir.

Q. Did you ever hear from Mr. Edlin that Mr. Johnson was compensated for making that speech? A. No, sir.

Q. Will you state whether or not you ever told Mr. Johnson that you had been reimbursed for the $500 contribution which you made to Mr. Johnson's campaign and which went to him, to his political treasurer's account? A. I never had any occasion to discuss it with him, sir.

* * * * * *

[4179] Q. When was the first time that you had any discussion with Mr. Johnson as to Mr. Johnson rendering any legal services in association with you? A. Some time in the month of August. Once again, I can't pin this down to a specific day, but I would say it was in the latter part of August, maybe something like the 20th or thereabouts. I don't know the exact date.

Q. Well, now, will you tell the jury just what conversation you had with Mr. Johnson at that time? A. Well, at that time I had gone to Mr. Johnson's office. I was seeking and desired to have associated with me a Maryland attorney, other than the attorney I was at that time dealing with or at that time maintained a relationship with.

I had previously, of course, met Mr. Johnson. I had gone through several months of negotiation with him in regard to the matter in which he was interested, the bridge matter. I explained to him that I represented several corporations. I explained to him some of them were in Maryland; that some of them were in Illinois; that some of the interests that I would be representing would be in New York and others from Miami.

He was, of course, familiar with First Continental Mortgage Corporation. We had discussed that at length at one time or another, I am sure, during our negotiations.

[4180] He explained to me that while he was continuing to practice law while he was in Congress, that nevertheless his Congressional duties were his primary obligation, and that he was not inclined to accept legal responsibility where it was going to require any substantial period of time out of his office; that he had to work primarily with matters where he could operate in a supervisory capacity or in the capacity of approving or disapproving actions, but that he was not in a position to participate in protracted hearings or meetings away from his office other than occasionaly during the evening or possibly on weekends.

I told him that I was acting as general counsel for the various interests, and that this type of relationship would be highly satisfactory to me; that what I primarily wanted was someone who could take over the matters that I was dealing with and check them against Maryland law and assure me that I wasn't violating what might be situations under Maryland law which would be contrary to Florida law and things with which I wouldn't be familiar, and from time to time, why, quite a few of those arose.

The Congressman told me that under those circumstances he would be glad to accept the position. I believe that at that period of time we discussed merely in passing. I don't think I was seeking any legal opinion. I believe that we discussed in passing a loan that was then in process, [4181] the Engineering & Development loan.

I talked to him about some of the facets of it as a form of background to give him the type of matters that we would be interested in.

I don't believe—my best recollection is—that I sought any assistance from him at that time or any advice regarding that particular loan at that time. The meeting ended on a mutually satisfactory basis. That is, he was willing to undertake the work, and I was very pleased to have him do so.

Q. Now, before you had that conversation with Mr. Johnson, state whether or not you had any discussion of this matter with Mr. Edlin, and if so, when and what was its content? A. I did, sir. It would either have been the same day or very possibly it might have been the day before. I had for some period of time been complaining to Mr. Edlin that I could not get along too well with the counsel we were working with. The man and I had a very strong personality clash, and I didn't enjoy working with him. I dreaded going to his office, quite frankly, and I had complained, and in this period of time I had been complaining to Mr. Edlin, and this particular date had complained. And he had turned to me and said, "Well, you have been working with Mr. Johnson? What do you think of him as a lawyer? [4182] Do you think you could work with him."

I told him, frankly I liked the man very much. He seemed to be quite competent, and I would like to work with him, and since my activities were mostly in Washington and his office was in Washington, it seemed very practical.

As a result of that meeting, I went to see Mr. Johnson for the purpose of seeing if he would accept the work.

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[4185] Q. Was there any problem at that time about the liabilities of endorsers on a note that bore an interest rate in excess of six percent, and if so, was that discussed at

[4186] that time or later on? A. It certainly was discussed. * * *

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Q. Will you just give us an idea as to what the subject of that discussion was? A. I am not absolutely certain how it arose. It is my best recollection that Mr. Edlin asked me particularly to confer with Mr. Johnson on that matter. Now, I might be in error as to the manner in which it arose. The question specifically was whether or not under Maryland law an individual guarantor could guarantee a loan which called for interest by a corporation in excess of the rates that were applicable to the individuals.

* * * * * *

(Vol. 33 [4261]) Now, it is undisputed that Mr. Johnson, after March 1, was in Miami and will you tell the jury what you discussed with Mr. Johnson when he was in Miami on that occasion? A. There were several matters here, sir. If I am going to cover those discussions, Mr. Doub, this was a continuation of some earlier discussions that will possibly make the conference in Miami more understandable, if I may go back a ways.

Q. Go ahead. A. All right, sir.

In this regard, some time late in February, Mr. Edlin came to me and stated that Mr. Johnson had asked him to come see him, and that he had talked to Mr. Johnson and that Mr. Johnson had at that time been advised that Mr. Edlin was then under indictment, and that Mr. Johnson had asked him, would he give him the details in regard to that indictment.

Mr. Edlin said that he spoke to him in some general terms but said that since Mr. Johnson was a lawyer and I was a lawyer, that I was fully familiar with the case, and he would prefer that Mr. Johnson discuss it with me.

[4262] He stated that Mr. Johnson said that he would appreciate my coming as soon as possible. He asked me to go see Mr. Johnson at that time and I did at that time,

except to this extent. I am not absolutely positive whether Mr. Edlin came to me in the late afternoon and I saw Mr. Johnson the following morning, or whether he came to me in the morning and I saw him the afternoon of the same day.

I saw Mr. Johnson at his office during the normal hours, so I went to his office at the first opportunity after Mr. Edlin had asked me to do so. At that time I explained in general terms to Mr. Johnson the basic charges in the indictment. I told him why I did not believe that Mr. Edlin or the other parties mentioned in the indictment were guilty of the crime with which they were charged.

I further advised him at that time that I very strongly felt and believed as I did, that these charges had resulted from very strong efforts and pressures, instituted by various competitors of his through the efforts of an organization known as The United States Savings and Loan League.

I particularly mentioned to him that, at that time, the correspondence between a Mr. Bridges and a Mr. Slipher. Mr. Slipher was the permanent representative [4263] in Washington, D. C. of the United States Savings and Loan League.

Mr. Johnson wished to inspect the indictment. I told him that I did not have a copy with me in Washington, that all of my work in regard to that case I had been doing so far as my own personal efforts were concerned, in Miami, and all of my papers in that regard were in Miami. On my next trip to Miami, which was coming up very shortly, I would bring these papers back for his inspection.

At this time Mr. Johnson advised me that he expected to be in Miami for a few days very shortly, himself, and that, if he should come to Miami before I was back in Washington, he was most anxious to go thoroughly into this matter and he would appreciate my making a copy of the indictment available to him at that time.

Very shortly after his conference, I think it was a matter of days, I traveled to Miami. We were, of course, still in the middle of the Desser and Garfield negotiations, and under the impression that Mr. Johnson was coming to Miami, I wrote this letter that you gave me—being Johnson Exhibit 69, telling him that I was in Miami and would like to see him when he came down.

When Mr. Johnson came to Miami, he did come to my office. I had a recollection of my father, who is also an attorney, and has as office on the same floor—I recall [4264] taking him down there.

I cannot remember now whether my father was in or whether I showed him my father's suite. We went into my office. I sent my secretary out for coffee for the two of us at that time. I gave Mr. Johnson a copy of the indictment. I believe I also gave him a copy of a statement of facts that had been prepared by Mr. Edlin giving his recollection of all the events that occurred, leading to this particular indictment.

I gave him a memorandum that I had previously prepared. I do not believe it was a very lengthy one. It had to do with particularly Mr. Bridges. It had been prepared at a time when Mr. Bridges was threatening to sue Mr. Edlin claiming a 20 per cent interest in First Continental Mortgage Corporation.

I again discussed with him certain correspondence of Mr. Bridges which was not in my possession, threats which Mr. Bridges had made against people who were on the Board of Directors of First Colony at the time of these threats. A letter, I do not remember now whether it was a letter from Mr. Bridges to Mr. Slipher or a letter from Mr. Slipher to Mr. Bridges, and a letter from Mr. Bridges threatening Mr. Edlin that he was going to have criminal charges brought if Mr. Edlin did not pay him a sum of money. I think it was $10,000.

* * * * * *

[4317] Q. Now, when was it that Mr. Johnson stopped rendering any real legal services to the land companies? A. I think his major services were pretty much over by the—I guess about August or thereabouts. Sometime along in there.

I cannot pin that down to a particular date. There was not a substantial amount of work done after the execution of these papers in August when we recorded the final documents and so forth on these transactions.

It does seem to me that the acquisition of an additional piece of property in Charles County, Maryland, I believe, was subsequent to that date but I could be in error on that.

Q. Now, were there any discussions that summer of 1961, with Kadder Corporation and Sayre & Fisher as potential buyers of the stock of the land companies? A. Yes, sir, there was a series of negotiations with three different companies. There was the Sayre-Fisher Corporation Group which I think was the first company we negotiated with. Sayre-Fisher, to my recollection, was in an out. That is, I believe that our first negotiations were with Sayre-Fisher, that then after that there were negotiations with Bruce Lumber and with a corporation [4318] known as Kadder Corporation and ultimately there were negotiations again with the Sayre-Fisher Company.

(The Court) You say these dealt with purchase of stock in the land company?

(The Witness) These all dealt with the sale of the stock of the Charles County Corporation and Leisure City Corporation.

(The Court) Who owned the stock of Charles County Land Company?

(The Witness) That was in International Electronics. I do not remember the actual name. It was International Electronics and Oil Corporation, I believe.

Q. (The Court) Who was International Electronics?

You mentioned a little while ago until I think you said "we purchased the mortgage" and "we" was Charles County Land—"until we acquired title to the mortgage." Now, "we" was Charles County Land Company. A. That is correct.

(The Court) Now, was "We"—you were talking about yourself and Mr. Edlin? Did you and Mr. Edlin own the International?

(The Witness) No, Your Honor. It may be unfortunate. I do not think I am the only attorney that indulges in that. But, unfortunately, when I speak of clients in any matter, I say "we." It is perhaps not [4319] correct and not proper.

When I speak on a matter that I handle for a client, I say "We did it." It does not mean I am a party to the transaction, no, sir.

(The Court) There seems to have been a good many transactions here in which Charles County Land Company and International are in that—I mean First Continental and First Colony, and the land companies, one or another of them, and the thing that is not clear to me it whether the ownership of Charles County Land Company was substantially the same as the ownership of First Continental Mortgage Company, which, I believe is the company that owned the stock in, the voting stock, in the two savings and loan associations. Were they owned by the same—were First Continental Mortgage and the owners of Charles County Land Company, substantially the same?

(The Witness) Mr. Edlin had stated to me and to Mr. Johnson, Mr. Lykes Boykin and others that in regard to Charles County and Leisure, that he was the spokesman for a syndicate of investors who generally dealt through corporations and that they all had full confidence in him, that he was authorized to speak for them, and he through these negotiations spoke for them and set forth the terms and conditions upon which these people would be satisfied.

[4320] (The Court) Well, it is going to be necessary in various matters in this case for the jury, it seems to me, at some time or another to know whether the interests of the voting stockholders of First Continental and First Colony, which I believe was First Continental Mortgage Company by agreement of everyone, now, whether that interest was substantially the same as the interest of (1), Charles County Land Company and, secondly, Leisure City Land Company.

Now, you say you do not know. Is that it, you do not know who really owned those companies, who the beneficial interest of those companies resided in?

(The Witness) I told you exactly what I knew, Your Honor, that Mr. Edlin stated that he was representing a group of investors from various cities and that they were the parties principal to Charles County and Leisure City. It was my impression that the same group that was referred to in Charles County was also being referred to in Leisure.

I certainly knew that First Continental Mortgage Corporation was not owned by a syndicate or group. But I was not acquainted with nor was I advised, nor did I ever meet any members of this syndicate.

(The Court) Then, it is my understanding that, to the best of your knowledge, the beneficial ownership of [4321] Charles County Land Company and Leisure City Land Company was not the same as the beneficial ownership of First Continental Mortgage Company and, therefore, through them, of the Association.

Now, is that what I gather from your testimony in this case?

(The Witness) Your Honor, I do not believe I have any actual knowledge in that area to where I could confirm or deny that, sir.

(The Court) Your answer is, you do not know whether they were the same or not?

(The Witness) I do not know who they were in Charles County and Leisure City.

(The Court) You do not know whether they were the same, or not, and you do not pretend to give the jury or the Court any impression one way or the other as to whether they were the same or different?

(The Witness) No, sir.

(The Court) Because that may make a difference in many aspects that we were talking about at the bench at one time.

By Mr. Doub:

Q. Did Mr. Edlin ever tell you, or tell Mr. Johnson in your presence, the names of the investors who owned the stock of the Land Companies? A. [4322] Never in full, sir. He mentioned from time to time three or maybe four persons whom we knew of that he said were part of the group. He never exposed or disclosed the entire group, sir.

Q. Was that to you, or was that to Johnson in your presence? A. I would say it was to Johnson in my presence. I would say Mr. Lykes Boykin was probably present, also.

Q. And what names did he give? A. Mr. Vincent Albano, associated with a bank in New York. I am not certain of this. I know he mentioned him on other occasions. I think he mentioned a Mr. Harold Green who was associated with a bank in Chicago. I believe that—and I am just not sure of this at all—I think Mr. McKeldin might have been there. I do not mean McKeldin. I have been reading your papers here. Mr. McDaniel, I think was mentioned.

(The Court) Now, do you know who were the owners of First Continental Mortgage Company?

(The Witness) I am sorry. I did not hear the question.

(The Court) Do you know who were the principal owners of First Continental Mortgage?

(The Witness) Mrs. Edlin held the majority, if not all of the stock in that corporation, sir.

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[4328] Mr. Doub, may I suggest that you let me go back a little before this? It is getting premature.

By Mr. Doub:

Q. All right, go back before that. A. This morning, if you will recall, Mr. Doub, I testified to my conference in February with Mr. Johnson regarding the indictment, and my later delivery to him in early March of a copy of the indictment, and at that point we went over to another subject.

Q. Yes. A. Immediately after the delivery in Miami to Mr. Johnson of the indictment, and various papers, as I testified, I returned to Washington and Mr. Edlin and I went to see Mr. Johnson for the purpose of discussing with him the indictment after he had had a chance to read it.

At this conference I discussed with Mr. Johnson the [4329] indictment which now he had read, paragraph by paragraph. I explained to him in detail what I believed were our legal rights and where I believed that the Government was being highly technical and unreasonable.

Further, I gave him all of the information that I had collected, or had or knew or had been told in regard to the factual situations and the factual answers to various charges in that indictment.

I would say that this conference lasted for two or more hours and during this time, Mr. Edlin, of course, interjected himself several times into the conference to explain some things to Mr. Johnson.

When the meeting was concluded, I felt that Mr. Johnson was satisfied. That my position was correct, that we did have an extremely strong defense to that charge, and that there had been undue, improper pressure in obtaining

the charge, and that it was not a good-faith prosecution for criminal acts.

When we had completed this meeting, Mr. Johnson advised me that Mr. Boykin, also, wanted an explanation of this matter and suggested that we go see Mr. Boykin at that time.

I believe Mr. Johnson made the call to see whether he was available. In any event, the three of us, Mr. Johnson, Mr. Edlin and myself, then went down to— [4330] not down to, but up to Mr. Boykin's office.

Mr. Johnson advised Mr. Boykin that he had been over this indictment thoroughly with me, and he felt he understood the facts and background. He did not feel, he said, that he or Mr. Boykin need be concerned with the fact that Mr. Edlin was involved in this indictment.

Then he suggested that I give Frank some of the explanation that I had given him. I then proceeded to explain to Mr. Boykin many of the items in the indictment. I did not attempt to give him as lengthy a discussion as I had Mr. Johnson. I thought there were many things that two lawyers could talk about and understood that would be of no interest to Mr. Boykin.

I believe I was very persuasive. I was saying things with which I had the greatest of confidence, which I certainly believed myself, and I was certain when I completed, Mr. Boykin was likewise convinced that this was not a matter of grave concern.

At the conclusion of these discussions in Mr. Boykin's office, either he or Mr. Johnson—I can not recall which—made this statement: "It seems to me that if this is the situation, it ought to be something for review by the Department of Justice." There was not at that time, an offer to go or an [4331] agreement to go to the Department of Justice. The subject was raised there by this discussion and this suggestion that this seemed to be something that ought to be reviewed by the Department of Justice.

Mr. Edlin made the statement that this was the kind of thing that he had always wanted. He reiterated again his innocence, his confidence in his innocence and his ability to prove it and that he looked forward to an opportunity to have some fair or impartial person review that case.

The meeting broke up shortly after that with some other talk and with no further talk of the Justice Department.

Either later that day or the next day, Mr. Edlin and I met with Mr. Lamar Caudle. The latter had previously been a member of the Department of Justice in the Attorney General's office, and during our conference, he advised us that he had had many such cases come before him, that is, parties seeking a review. He further stated that he always warned any one seeking such a review that the odds were strongly against the matter being dismissed, that their only hope or possibility of a dismissal would be to make an absolute, complete, unqualified disclosure to the Department of Justice of all their defenses, of any and all evidence that they had to justify [4332] their position, their conduct and that in the event, after a review of these materials, the Department of Justice was disposed to go ahead with the case, that all such materials would be made available to the prosecuting attorney by the Department of Justice, and that he, Mr. Caudle, thought that this was a very grave risk for any defendant under a criminal charge, to take.

Mr. Edlin reiterated again his absolute conviction of his innocence: Of the fact that these charges were not brought to prosecute him but were brought to destroy him, and the companies that he was promoting. That, as long as he could have a review by someone who was impartial, this case would never be tried.

So then Mr. Caudle, Mr. Edlin and I went to see Mr. Johnson. Mr. Caudle explained to Mr. Johnson the same things that he told to Mr. Edlin and again Mr. Edlin had reiterated all he wanted was a fair chance to be reviewed by some impartial body.

Mr. Johnson,—we went on in further conversations, then and Mr. Caudle, or Mr. Johnson, I am not sure who initiated it, but there was substantial discussion at this time to the effect that for review by the Department of Justice a memorandum would have to be prepared.

That it would have to set forth what we thought [4333] were the answers and the defenses to all the charges. It should set forth the facts that we thought we could prove as an answer thereto, any legal defenses we thought we had, they should be extremely complete and exhaustive and should constitute a full disclosure of everything we thought we could walk into a court room with trying that case which would assist us.

So, Mr. Johnson again asked Mr. Edlin if he was sure that under those circumstances, he wanted to have his case reviewed. Mr. Edlin again insisted that he was never afraid to have this case reviewed by someone that was impartial.

Mr. Johnson said then that he would contact Mr. Boykin and see if Mr. Boykin could arrange an appointment with the Attorney General.

(Mr. Williams) Excuse me.

Would Your Honor ask Mr. Doub to fix the point of time of this last meeting? I do not think it was done for the record.

(Mr. Doub) When did this meeting occur that you have just testified to?

(The Witness) It could not have been before the 15th of March and I would be inclined to place it on the 16th or 17th, but it would be within that period.

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[4346] (Mr. Doub) I am going to ask him for his explanation of several statements in this FBI statement.

* * * * * *

[4347] (The Court) On what ground do you have a right to offer it? You are not trying to cross examine him.

(Mr. Doub) I think I have a right to ask him the meaning of several statements he has made, Your Honor.

(The Court) You may have a right if the Government uses it on cross examination. You may read it, and you may ask him questions about it on redirect, but to take a statement that a man has given just to support—you can't do it by proving consistent statements. I haven't interrupted you a number of times during your examination in which you got him to say that somebody else had told him something; Johnson had told him something that had happened. That is not proper evidence.

If the Government uses it and reads some statements, and you don't think they have been explained you may ask him on redirect to explain any such statement, but you can't read a statement he has given to somebody else any more than you can put somebody else on the stand to say at some other time he said the same thing he said today.

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[4348] (The jury left the court room.)

(At the Bench:)

(Mr. Genn) I am going to move for a mistrial, Your Honor.

(The Court) Go ahead.

(Mr. Genn) I have already stated previous grounds. I reincorporate those previously made.

I think also, in addition, the Court has from time to time —and I must say, Your Honor, I think we have walked to some extent on egg shells on this—I think the Court has interjected far too much in the case and the examination at the time when it appears that certain statements are made that seemed harmful to the Government. I think this is one-sided.

There were no objections from the Government on many of these things. The Court has interjected itself. I think

further—I am not suggesting any more than what I am stating, and I am also stating, Your Honor, that I think that the Court's questioning of this particular witness beyond a statement of "I don't know" suggested things to the jury, which I think were improper in the [4349] case. He stated that he didn't know certain things, and I think that that was as far as it should have gone.

I again renew a motion for a mistrial on previous grounds and on the grounds I have already stated.

(The Court) Motion denied.

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(Vol. 34):

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[4401] By Mr. Weiner:

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[TR 4372-4374]

By Mr. Doub:

Q. Mr. Robinson, do you recall an air plane trip in July of 1960 from Washington to Miami with Mr. Edlin and Mr. Goldman? A. Yes, sir.

Q. On that trip tell the jury whether you said at any time that you had written Mr. Johnson's speech? A. No. That is not my statement at that time, no, sir. Nor at any other time.

Q. You say you did not make that statement on that plane trip? A. I did not.

Q. Or at any other time? A. That is correct, sir.

Q. Did Mr. Edlin make a statement that he had written the speech? A. Yes, sir.

Q. Mr. Edlin said he had written it? A. Yes, sir, he did.

Q. And what did you reply? A. We had all had several drinks on that particular flight. Mr. Edlin was horsing

around with several of his friends on the plane. He made this statement, and when he made it, I replied, "Mr. Edlin, you not only did not write that speech, you could not write a letter."

Q. In May or June of 1960 or at any other time, did you ever say to Sadie Goldman that "Mr. Johnson is on our pay roll, it is costing Ken plenty", or did you ever use any comparable words? A. No, sir.

Q. Now, there are in evidence, Mr. Robinson certain checks of First Continental Savings and Loan payable to Mr. Johnson which he deposited in his account at the Berlin Bank. Did you ever tell Mr. Edlin at any time in the presence of Mr. Jackson Rains, or not in his presence, that Mr. Johnson would not touch a First Continental check with a ten-foot pole, or words to that effect? A. I have no recollection of any such statement. There was a period of time when First Continental was receiving a great deal of adverse publicity and anyone in any way associated with First Continental was being castigated in one way or another in the newspapers and it is remotely possible that during that period of time I might have made a comment something like that. I have no recollection of making it but there was a period of time when I do not think anyone wanted to be around First Continental when the Washington Post was working on it.

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[4402] Q. Mr. Robinson, let me ask you this question: Have you ever heard of a company known as Edlin, Goldman, Robinson, Inc.? A. I have, sir.

Q. Was that a New York Corporation? A. Yes.

Q. Was it in existence in August through December of 1961? A. I am not that sure of the dates. It sounds like it is correct, sir.

Q. And the Robinson there in Edlin-Goldman-Robinson, was that you, sir? A. It was, sir.

Q. And was this not a company operated in New York

for the solicitation of savings and loan deposits? [4403] A. That was the thing that its activities consisted mostly of. That was not its only purpose but that was primarily the only activity it ever engaged in.

Q. Those were the only activities it engaged in from August to December, 1961, is that right? A. Not quite, sir. Very close to it. There were several attempts, several unsuccessful attempts to arrange through the sale of limited partnership arrangements which were fairly popular in New York at that time. Negotiations had been had on behalf of that corporation in that field but we never did succeed in their negotiations.

Q. And in this primary purpose that Edlin, Goldman and Robinson had of soliciting deposits, they were soliciting deposits, were they not, for First Continental and First Colony Savings and Loan Associations? A. I do not remember whether they solicited for both or not, sir. I know they were soliciting accounts for First Continental and possibly for First Colony.

(Mr. Doub) Possibly what?

(The Witness) Possibly for First Colony. I do not remember for certainty they did.

By Mr. Weiner:

Q. You do know they were soliciting accounts for First Continental? [4404] A. Yes, I am sure of that.

(Mr. Weiner) Mark these, please. I think they can be offered as a group.

(The Court) Mark them Government Exhibit 188-A, B and C and so forth.

Is there any objection, not to the ones which nobody has seen yet but 186 for identification, is that being offered in evidence?

(Mr. Weiner) Yes, sir.

(The Court) And 187 for identification?

(Mr. Weiner) Yes, sir.

(Mr. Genn) I have stated all these checks are completely irrelevant.

(The Court) The same objection and the same ruling.

Mr. Robinson, do you want an objection?

(Mr. Robinson) I join in that objection.

(The Court) Overruled.

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[4405] (Government Exhibit 188-A through 118-K marked for identification.)

By Mr. Weiner:

Q. Mr. Robinson, I show you Government Exhibit 188-A through 188K, for identification, and I ask you if it is not a fact that both the Leisure City Land Corporation and the Charles County Land Corporation between August and December of 1961, paid or advanced some $30,000 to Edlin, Goldman, Robinson, Inc.?

(Mr. Doub) What period is that?

(Mr. Weiner) August through December.

(Mr. Doub) 1961.

(Mr. Weiner) Yes.

(The Witness) I did not actually total these but they appear to be in the approximate sum you mentioned in your question. I would say these sums of money were paid by Charles and Leisure to Edlin, Goldman and Robinson, yes, sir.

* * * * * *

[4409] (The Court) I think we can simplify this if Mr. Doub is willing to admit that Mr. Edlin controls both of them so far as the case against Johnson is concerned and Mr. Williams is willing to admit it so far as Mr. Boykin is concerned and Mr. Robinson is willing to admit it as he said he would testify that that is true, as to them that

would be admissible, but it would not be admissible against Edlin, and I will stop any further testimony along this line.

(Mr. Tydings) I think it has to go further than that. He had to tell the jury on the stand that what he told the Court yesterday was not a fact.

(The Court) This control has never been admitted.

(Mr. Genn) Your Honor, I have said it is not conceded. It is irrelevant to this particular case.

Furthermore, Your Honor, may I state something further? I think that this proceeding to use these checks while it may be designed for one purpose [4410] with respect to this particular witness has the other effect upon the defendant Edlin of suggesting improprieties or suggesting something in reference to Mr. Edlin that I believe as to the issue of materiality and as to the issue of the purpose for which it is given goes beyond what is necessary and I think it is improper.

(The Court) I do not think it suggests impropriety. I think it suggests just exactly what is was offered to prove, that Edlin dominated both of the corporations or that he directed them.

(Mr. Tydings) And that he owns them.

(The Court) So far as owning is concerned, if the concession were made on domination, I would say that ownership was unimportant. But if they cannot make the concession on it, I will let it stand as it is.

On the other hand, if these other three defendants will now concede for their purposes that Edlin dominated those corporations, then I will not allow further testimony simply to prove that point.

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[Tr. 4413-4419] CROSS EXAMINATION

By Mr. Weiner:

Q. Now, there is in evidence, Mr. Robinson, as Government Exhibit 54, a letter and preliminary speech draft which appear to be over your signature, dated May 3, I believe. A. Yes.

Q. Of 1960? A. Yes.

Q. That is your signature there? A. Yes, sir.

Q. And the speech draft which is with the letter is the speech draft that was included in that letter when it was sent to Mr. Heflin by you, was it not, on May 3, of 1960? A. That is correct, sir.

Q. And this, Mr. Robinson, is a Congressional, is a preliminary draft of a Congressional speech, is it not? A. It certainly is, sir.

Q. And it was submitted to Mr. Heflin as a speech to be delivered by a Congressman, is that right? A. That is correct, sir.

Q. And that is the reason why Mr. Heflin has the marks "Mr. Speaker" throughout it—referring to the House of Representatives? A. I would presume that is why he made those alterations and changes, yes, sir.

Q. You told him it was a speech to be delivered in the House of Representatives by a Congressman, did you not? A. No, sir, Mr. Weiner. If you wish the explanation, I will be glad to make one for you, sir.

Q. All right. A. I first met Mr. Heflin to my best recollection, I believe it was in April of 1960 when he came to Miami. I think that was his testimony. I met him at that time along with Mr. Edlin and I believe one of the other personnel of First Continental Mortgage was present. I do not remember who it was at this moment and we discussed at that time his engaging in the public relations field on behalf of the Institute, and the independent savings and loan associations.

We discussed these only generally at that meeting and as to whether or not he would undertake it. He agreed that he would. Thereafter, on one of my trips after that meeting to Washington, I met and conferred with Mr. Heflin. We discussed various methods and means of public relations. I had previously to this sent him a rather lengthy letter setting forth the various matters that we considered problems, or matters to be promoted in a public relations campaign. In this meeting and after further discussing the matters in my letter, Mr. Heflin said that he felt that there was enough material here where he could ultimately persuade some Congressman to make such a speech in this field which might promote our interests.

No Congressman in particular was picked or selected. There was the hope that some Congressman could be persuaded to become interested in this subject matter. He did mention one or two that he knew or had knowledge about that were connected with the banking committees in the House that he thought possibly might become interested in this subject and he suggested that I prepare a proposed speech.

Q. Did he say whether or not he had already contacted those people? A. It was my understanding that he had not contacted anybody at all, but had merely thought this was something that might be done and, as a preliminary to that, he suggested that I prepare what I thought would be a proper speech in that area. Therefore, in May, I did prepare a speech which I sent to Mr. Heflin. I had no Congressman in mind and I do not believe that he had any Congressman in mind.

Q. You did not have a Congressman yet who would deliver that speech? A. We had not even discussed any Congressman. I felt—and Mr. Heflin felt—that the subject matter and the wrongs that I was complaining of were something that some Congressman, if made aware of these things, would react to and probably would make a speech on this subject.

Q. But you knew it would be a Congressman and not a Senator, did you not? A. I did not know who it would be. Mr. Heflin in making with me this—well, in talking with me, he had talked about Congressmen. Now whether by that he meant someone in the House or someone in the Senate, I would not know and I would not know to this day whether it would be preferably one place or the other.

Q. Did you not have any discussion with him before he put in the words, "Mr. Speaker?" A. No, sir, the only discussion we ever had in regard to this draft was his advising me that this was entirely too strong, that, in his opinion, nobody in Congress would give a speech in the form that I had prepared and that it was completely unsatisfactory.

Q. Now, are you saying then that he undertook on his own to pick someone in the House of Representatives or to have someone in the House of Representatives do it rather than a Senator? A. I think he exercised his own judgment. I do not like the selection of the words "to have someone". We felt, and I still feel to this day that there are matters here that are improper which, if properly presented by any public-spirited member of the House or the Senate, that they are subject matters for a speech—for a proper speech.

I still think there are matters here that are subject matter of a Congressional investigation. There are some very serious matters in the field and I think a Congressman, if made aware of them, would likely make a speech whether he be in the House of Representatives or in the Senate.

Q. Tell us this, if it did not matter whether it was a member of the House of Representatives or a Senator, did you raise any objection when he tailored it to be a speech for a Congressman? A. Mr. Weiner, until it was introduced in Court, I never saw the corrections made on this particular draft.

I would have made absolutely no objection had I known of them, and it very well may be that Mr. Heflin had many

more contacts in the House of Representatives than he did in the Senate. Why he chose the House, I do not know, sir.

Q. This was only one of several drafts that you prepared for Mr. Heflin, was it not? A. I am not absolutely certain but I think I prepared a subsequent draft. It was very close to this and he turned that down, too.

Q. Now, Mr. Robinson, I believe you also testified that it is not your recollection but that you do not deny that you went with Mr. Heflin to Congressman Johnson's office some time in May when he was turned over or was introduced to Mr. Buarque? A. I do not deny it. I do not remember it but I do not see any reason why he would have said it if it had not happened.

Q. Didn't he confer with you from time to time while he was working with Mr. Buarque? A. No, I do not believe he did, sir. I gave Mr. Heflin the materials and my thoughts on this and I did that over a period of about three meetings. There was no need for me to sit down and tell him the same thing all over again. I had told Mr. Heflin what my thoughts were, what my theories were, what the things were that I thought something ought to be done about. I had delivered that to him.

There was no reason for me to tell him the same thing all over again. He was a very intelligent man.

* * * * * *

Q. And that Mr. Edlin said that these charges were being brought not to prosecute him but to destroy him? A. That is correct, sir.

Q. And then you, Mr. Caudle and Mr. Edlin all went over to Congressman Johnson's office? A. Yes, sir.

Q. And that Mr. Johnson, on page 4333, again asked Mr. Edlin if he was sure that under those circumstances he wanted to have his case reviewed, and that Mr. Edlin again insisted that he was never afraid to have his case reviewed by someone that was impartial? A. That was my testimony, sir, and still is.

Q. Isn't it true, Mr. Robinson, that Mr. G. C. A. Anderson, the man who was representing Mr. Edlin in that particular criminal case, was not consulted or even informed that the Congressmen were going to go over to the Department [4498] of Justice and discuss this case or make any disclosures of what defenses there were in that case? A. To the best of my knowledge that is absolutely correct. I certainly never informed him. Mr. Edlin never told him in my presence, and generally speaking, when Mr. Edlin talked with any of these lawyers I was with him. Actually I was collecting the evidence in the case, and at that particular time Mr. Edlin was treating me as his counsel in the case. I was not his counsel of record, but I was assisting with the case.

Q. Is it not also true that the chief defense lawyer in that case was Mr. Paul Berman, who had entered his appearance for First Colony Savings and Loan Association? A. I think that might be so.

(The Court) What do you mean chief defense counsel? If he had entered his appearance for First Colony.

(Mr. Tydings) I think the witness has just answered the question, Your Honor.

(The Witness) I did not answer the question.

By Mr. Weiner:

Q. Mr. Berman was the one who was supervising generally the preparation for the trial of that case, wasn't he? A. I am not sure I can go with you on that, Mr. Weiner. I think it is almost a fair characterization possibly [4499] to say insofar as Baltimore counsel is concerned, he was generally considered chief counsel. I don't mean in any way to try to put myself in the field of criminal law above Mr. Berman, because it would be ridiculous, but nevertheless Mr. Edlin at this period of time was discussing this case almost solely with myself. He never had a conference that I know of with any of these attorneys without taking me along. I was the only man that was familiar with every

facet of what had been going on, and while I would never characterize myself as the chief counsel in the case, because I wasn't, at this time the relationship was such that these matters, when they were discussed, were discussed primarily with myself.

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[4497] By Mr. Weiner:

Q. Now, I believe you testified yesterday that Mr. Edlin and you met with Mr. Caudle, and there was a discussion about a review of the case, and that the only hope or possibility of dismissal Mr. Caudle told you would be an absolute, complete, unqualified disclosure to the Department of Justice of all of the defenses and of any and all evidence that there was to justify the defendant's position; was that your testimony yesterday? A. Yes, sir.

[4502] CROSS EXAMINATION

By Mr. Williams:

* * * * * *

[4506] Q. * * * First of all, with respect to First Colony Savings and Loan Association, who named the officers of that company? A. I would say Mr. Edlin insofar as any officers that were named after I became associated with him.

(Mr. Genn) Your Honor, just so the record may be clear. I object to and continually object to this line of questioning and will not repeat the objection, so we may proceed.

(The Court) Overruled.

By Mr. Williams:

Q. Who named the directors of that Association? A. Mr. Edlin.

Q. Insofar as you had a relationship with that association who made the policy decisions of that Association? A. Mr. Edlin.

Q. Who hired and discharged the employees of that Association? A. Well, that is a slightly different situation, Mr. Williams. This would, I suppose, depend on the type of employee. Stenographic help and things of that nature might [4507] well be hired and fired without Mr. Edlin's participation in any way.

Q. Would such personnel be hired and fired by someone superior or subordinate to Mr. Edlin? A. Well, somebody that—the person doing the hiring and firing would be somebody that Mr. Edlin had approved as being an officer or having been qualified.

Q. At any time to your knowledge was there held a stockholders meeting of First Colony Savings and Loan Association? A. Yes, sir.

Q. There was. And who was there present? A. Well, that would be, I suppose, myself, actually acting for or being authorized to act for First Continental Mortgage Corporation, which was the stockholder.

[4508] Q. And who held the stock in First Continental Mortgage Corporation? A. Mrs. Edlin held all or most of it.

Q. Now, directing your attention now to the First Continental Savings and Loan Association, who appointed the officers of that association? A. Mr. Edlin.

Q. Who appointed the Directors of that Association? A. Mr. Edlin.

Q. Who made the policy for that Association, operational policy? A. The basic policies were established by Mr. Edlin.

Q. Who was the final authority to your knowledge with respect to decisions of that company? A. On a policy decision, I would say Mr. Edlin. This would not be true as to every decision.

Mr. Edlin would invariably acquiesce in my decision if I

told him some activity were illegal. He would not try to override my decision in that regard at all.

Q. Now, Mr. Robinson, did you—to your knowledge—know of a stockholders' meeting of First Continental Savings and Loan Association during the time in which you were associated with it? [4509] A. Yes, sir, it would have been held in the same manner as I testified to on First Colony.

Q. Who was there present? A. It would be myself and I would have someone else. I do not know who would be appointed for the purposes of the meeting so we could hold a meeting.

Q. Who held the stock in the company? A. First Continental Mortgage.

Q. Now, directing your attention specifically, Mr. Robinson, to the Charles County Land Company, it was formed in 1961; who appointed the officers in that company? A. Mr. Edlin.

Q. Who named the directors? A. Mr. Edlin.

Q. Do you know who the stockholders of that company were? A. No. All I can tell you on that, as I told his Honor, yesterday, the actual stockholders would be International Electronics.

Q. International Electronics? A. Electronics and Oil, I believe.

Q. Who were the directors of International Oil and Electronics? [4510] A. I do not remember, sir. I believe Mr. Rasnek was one. But I just could not remember.

Q. Who were the officers? A. I believe the officers and directors were the same with the exception of myself and I was appointed as, was given a title as a special vice president for the purpose of consummating a particular transaction.

Q. Who named the officers and directors of International Electronics? A. Mr. Edlin.

Q. Was not the name of that company International Oil and Electronics Corporation? A. I think you may be correct.

Q. To your knowledge, who were the stockholders of International Oil and Electronics Corporation? A. Illinois Mortgage Corporation.

Q. Illinois Mortgage Corporation. A. Yes, sir.

Q. Who were the officers of the Company, the Illinois Mortgage Corporation? A. I do not remember, sir. I believe I may have been one but I am not sure of that.

Q. Who were the directors? A. I do not remember now, sir.

Q. Who named them? [4511] A. Mr. Edlin.

Q. Who were the stockholders of Illinois Mortgage Corporation? A. I do not know, sir.

Q. Now, directing your attention to Leisure City Land Company. A. Yes, sir.

Q. Who named the officers of the Leisure City Land Company? A. Mr. Edlin.

Q. Who named the directors? A. Mr. Edlin.

Q. Who were the stockholders? A. It would be the same as the stockholders in the Charles County Land Company. It would be the same as Charles County.

Q. It was International Oil and Electronics Corporation? A. Yes, sir.

Q. Is that the company you just told us about? A. Yes, sir.

Q. Did you at any time during your association with these companies, Mr. Robinson, meet any one in a position of

authority over Mr. Edlin with relation to any one of these companies? [4512] A. No, sir.

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[4540] CROSS EXAMINATION

By Mr. Genn:

Q. Mr. Robinson, you said that—

(Mr. Edlin) I would like to approach the bench, if I may with my counsel on the premise of the same privilege that was extended to Mr. Johnson, and discuss what my wishes or my desires could be with the Court.

(The Court) You mean by yourself?

(Mr. Edlin) Yes, sir.

(The Court) Without the Government present, or without any of the other defendants present?

(Mr. Genn) May we have a recess, Your Honor?

(The Court) I think that is entirely all right.

(Mr. Genn) May we have a recess?

(The Court) Is there any objection? Would anyone have any objection?

(Mr. Edlin) I have objection to other counsel except the Government.

(The Court) Well, do any of the defendants object to the Government being present?

[4541] (Mr. Williams) Yes, we do. We are in this case, Your Honor. We want to be party to all of the proceedings.

(Mr. Genn) Your Honor, I think we should have a recess.

(The Court) I guess we had better take a brief recess. I hope we can finish with Mr. Robinson today so, the jury will be excused for the moment.

* * * * * * *

(Vol. 35 [4546]) PROCEEDINGS

(The Court) Just to get the record straight, I understand the request for some further delay made at the last moment on Thursday is now withdrawn.

(Mr. Genn) That is correct.

(The jury entered the jury box.)

CROSS EXAMINATION (resumed)

By Mr. Genn:

Q. Mr. Robinson, with regard to the savings associations, the First Colony and First Continental, various [4547] persons had various responsibilities, is that not correct? A. Yes, sir.

Q. For example, Mr. Rains was responsible for the accounting aspect or area of concern of the business, is that right? A. Yes, sir.

Q. And Mr. Wyckoff was responsible and had an area of concern in advertising? A. That would be correct, sir.

Q. And you, along with Mr. Goldman, had the responsibilities in the legal area, is that not correct? A. Yes, sir.

Q. . . . Now with respect to the loans and that substantial part of the savings and loan business known as loan negotiations, process of loans and so forth, that was the responsibility of Mr. Edlin, is that not correct? A. That is correct, sir.

Q. That was the money-making aspect of this business, is not that true? A. Yes, sir.

Q. Now, would it not be fair to say, sir, that when it came to a clash of opinion or disagreement between Mr. Edlin interested in the loan aspect of the business and loan policy and the persons I have mentioned in their [4548] areas of responsibility, such as Mr. Rains in accounts, Mr. Wyckoff in advertising, and yourself and Mr. Goldman in Legal,

when it came to a clash with Mr. Edlin in this regard, is it not fair to say that the ultimate result was that he would defer to and give in to those individuals in their areas of responsibility? A. In the area of legal responsibility at all times he would do so. In the area of accounting, I think it would be fair to say that he would ultimately acquiesce in Mr. Rains' judgment when there was a disagreement and I think the majority of the time this would be true as to Mr. Wyckoff but I could not say as to Mr. Wyckoff it would be true in every instance.

(Mr. Genn) I do not believe I have anything further.

[4585-6] Q. Now, you mentioned on cross examination the name of a company called Edlin, Robinson and Goldman Company. Did you ever receive any money directly or indirectly from that company? A. No, sir.

Q. Now, will you tell the jury, Mr. Robinson, whether your contribution of $500 enclosed with your letter of June 20, 1960, to Mr. Johnson's campaign had any relationship to the speech which he later made? A. No, sir, it did not.

Q. Did your $300 campaign contribution in November, 1960 have any relationship to the speech which he made five months before? A. No, sir.

Q. Was Mr. Johnson at any time an officer, director or stockholder of Charles County Land Company? A. No, sir.

Q. Was Mr. Johnson at any time an officer, director or stockholder of Leisure City Land Company? A. Mr. Doub, Mr. Johnson was never an officer, director [4586] or stockholder of any of the corporations which have been mentioned in this case to the best of my knowledge.

Q. Mr. Robinson, you have indicated that you know more about the legal services performed by Mr. Johnson than anyone else; based upon your experience as a lawyer do you consider the fees which he received for the legal services you have described as reasonable and fair, or do you con-

sider them to have been excessive? A. I would say that the fees which he was supposed to have received would have been extremely reasonable and fair. The $25,000 fee, for example, had to do with his assuming the complete and final responsibility having to do with a foreclosure and subsequent transactions which involve some $9 million. And I think, to have the ultimate responsibility in that area, he was entitled to a very substantial fee.

(Mr. Doub) That is all.

[4646] (Mr. Williams) We are ready, if the Court please.

I call Mr. Hanowell, please.

THEREUPON,

CHARLES L. HANOWELL

was called as a witness on behalf of the Defendant Boykin, being first duly sworn, was examined by counsel and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Charles L. Hanowell.

(The Clerk) Take the stand, Mr. Hanowell.

DIRECT EXAMINATION

By Mr. Williams:

Q. Mr. Hanowell, will you state your name for the Court and the jury? A. Charles L. Hanowell.

[4647] Q. Where do you live, sir? A. 4408 North 17th Street, Arlington, Virginia.

Q. How long have you resided there? A. 19 years.

Q. And what is your occupation, Mr. Hanowell? A. Real estate appraiser.

Q. How long have you been so engaged? A. About thirty years.

Q. And would you tell the Court and jury what associations you belong to with respect to your occupation of real estate appraiser? A. The Virginia Association of Assessment Officers and the American Society of Appraisers.

Q. And have you served on any real estate reassessment boards? A. I served on the Re-Assessment Board for Real Estate in Arlington County in 1950-1951 and 1956-1957, and as President of the Northern Virginia Real Estate Association in 1950. I was Vice-President of the Virginia State Association in 1951.

Q. How long, Mr. Hanowell, have you been engaged in the profession of making appraisals of real estate? A. Thirty years.

Q. And during that time will you state whether or not you have made appraisals of real estate on improved ground for [4648] the Federal Government? A. Yes, sir.

Q. Would you state what agencies or branches of Government you have done this for? A. The General Services Administration, United States Army Corps of Engineers, Washington District, which included the appraisal of the Nike sites in Charles County, Anne Arundel and Prince George Counties. For the Bureau of Public Roads.

I testified in this Court for the Department of Justice in a condemnation action on a Nike site in Charles County near Pomfret and Waldorf.

Q. Did you participate in the appraisal on the ground on which not sits the new Dulles Airport? A. I was an associate on the appraisal for the acquisition of the land now used for the Dulles Airport.

Q. Was that for the Government, sir? A. Yes, sir.

Q. Have you performed appraisals of real estate for local governments? A. Yes, sir, for the Arlington County Board of Supervisors, the School Authority, the School Board, Park Authority of Fairfax County, the Sanitary Sewer Commission of Prince William County, the school boards,

the Arlington County Public Utilities Commission, the Virginia [4649] Department of Highways, the Virginia Electric and Power Company, which is actually not a governmental institution.

Q. Have you done any teaching of real estate appraising at any universities? A. I am an instructor in the appraisal of real estate at the University of Virginia Extension Service, and have been for the last three years, and I am still in that field.

Q. Now, Mr. Hanowell, directing your attention to a tract of ground, which consists of 7,937 acres, situated in Charles County, Maryland, and sometimes referred to as Linda City, some of which borders on Route 301. Did you have occasion, sir, to make an appraisal of that ground? A. I did.

Q. And when did you make it? A. The appraisal was made in December 1962.

Q. For whom did you make that appraisal, Mr. Hanowell? A. Mr. Francis J. Finneran.

Q. And can you tell the jury with what company Mr. Finneran is associated? A. Mr. Finneran is the owner of the Feda Realty Corporation, and the owner of the Charles County Land Company.

Q. And can you tell the Court and jury whether or [4650] not Charles County Land Company holds title to that tract? A. Charles County Land Company, according to the records in Charles County, has title to the 7,937 acres.

Q. Now, first of all, I will ask you, Mr. Hanowell, how long did you engage yourself in making this appraisal? A. It took about three and a half weeks.

Q. And did you associate anyone with you for purposes of this task? A. I did. Mr. Richard Parli.

[4671] By Mr. Williams:

Q. I asked you, Mr. Hanowell, what did you and Mr.

Parli conclude to be the fair market value of the Waldorf tract of ground as of December 22, 1962.

(The Court) I understand you are going to follow that up, Mr. Williams, based on what we said at the bench, by showing what change, if any, there has been in developments which would change the value from the period which we are interested in of somewhere in 1960-1961 until December 6, 1962.

(Mr. Williams) 1961, specifically.

(The Witness) $12,250,000, or $1,350 per acre, a total of $12,250,000, of which a certain sum was assigned as the market value of the deed of trust which exists on the property.

[4672] Q. Now, did you hear the question that His Honor propounded a moment ago to me, Mr. Hanowell? A. Yes, sir.

Q. Now, is there anything that you were able to find [4673] that affects the value of this property in your opinion between December, 1962 and May of 1961 other than the acquisition of the Ryon tract which you told us about, and then I am going to ask you how much you would discount your appraisal for the Ryon tract?

(The Witness) As an estimate based on increased values and now it is difficult to determine without going back to those dates you would then be governed by sales that took effect prior to it and development and those patterns prior to that time, but generally the market increase has been about 7 per cent from January of 1961 to December 1962.

By Mr. Williams:

Q. So you would say approximately there was an increase in the value of real estate in that area from January 1, 1961 to December, 1962 of about 7 per cent? A. Approximately 7 per cent, yes.

[4674] Q. How much would you take off your appraisal,

Mr. Hanowell, by reason, if you subtracted the Ryon tract, which was acquired by Charles County in 1961? A. About $1,000 an acre or $200,000.

Q. About $200,000? A. Yes.

Q. Which would reduce your appraisal to $12,050,000 and then you would take 7 per cent off because of increase in real estate values, is that correct? A. Yes.

Q. Well, what would your expert opinion be then as to the value, the fair market value of the tract absent the Ryon tract, at approximately May 1, 1961 if you can do some quick mathematics for us. A. That would be an approximation figure because I have not any definitely examined change—I have not definitely examined the change in land values or values in the particular area but it is approximately in the area of about 7 per cent.

[4675] By Mr. Williams:

Q. Now, Mr. Hanowell, have you had occasion to make a preliminary study of the tract of ground known as "The Leisure City tract" in Brooke, Stafford County, Virginia? A. It has been very preliminary, Mr. Williams. I have gone over the tract in a helicopter. I have had occasion to make appraisals in the general area on some highway condemnations both for the State Highway Department and for property owners, and one appraisal was on property near the Stafford County Court House at Aquia Creek for a New York concern liquidating a corporation.

I have not made a complete study of the Brooke tract. I have not been furnished with the topography of the tract. I have checked it on the Coast

[4680] By Mr. Williams:

Q. What is your preliminary, tentative opinion with respect to the value of the Brooke property? A. Between $4,500,000 and $6 million—between $900 and $1200 per acre.

[4683] DIRECT EXAMINATION

By Mr. Williams:

Q. Would you state your full name, please, Mr. Parli? A. Richard L. Parli.

Q. Where do you live? A. 4671 North Ditmar Road, Arlington, Virginia.

Q. How long have you lived there? A. In Arlington?

Q. Yes, sir. A. I have lived in Arlington for about 18 years. I have lived at this particular address for about ten years.

Q. What is your occupation, Mr. Parli?

[4686] Q. Did there come a time in 1960 when you participated in making an appraisal of a tract of ground in Waldorf, Maryland? A. Yes.

Q. Is that a tract consisting of some 7,937 acres? A. It is.

Q. Would you tell the Court and the jury approximately how much time you spent on that task? A. Approximately 8 days, 8 or 9 days on it.

[4698] Q. Now, did you form an opinion with respect to the fair market value of the tract of ground near Waldorf known as "The Linda City tract" as of December, 1962? A. The total value?

Q. Fair market value? A. Yes.

Q. What was that? A. $12,250,000.

Q. Now, further than the tract that we have been discussing in the last two or three minutes, is there [4699] any difference between the tract known as "Linda City" as of May, 1961, and December, 1962? A. No.

Q. Would you discount your appraisal of the fair market value of the Linda City tract if you subtracted the so-

called Ryon tract from it? A. Would I arrive at a lower figure?

Q. Yes. A. Yes.

Q. Approximately how much, sir? A. $1,000 an acre.

Q. $1,000 an acre? A. Yes.

Q. That would be roughly $200,000 less, is that correct? A. Yes, sir.

* * * * * *

By Mr. Williams:

Q. Now, Mr. Parli, is it or is it not the fact that there has been an increase in real estate values in [4700] the Metropolitan area for unimproved ground in 1961 and 1962? A. There has but it is almost going up monthly, you might say.

Q. Would you say that from January, 1961 to December of 1962, that there has been an increase? A. I would say there has been at least a five per cent increase and possibly as much as six or seven per cent.

(Mr. Williams) I have no further questions, Your Honor.

* * * * * *

[4790] (Mr. Williams) I am calling Mr. Lykes Boykin.

Thereupon

LYKES BOYKIN,

a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

(The Clerk) State your name, please.

(The Witness) Lykes M. Boykin.

(The Clerk) Lykes M. Boykin, take the stand, please, sir.

By Mr. Williams:

Q. Would you state your full name for the jury. A. Lykes Mueller Boykin.

Q. Where do you live? A. Arlington, Virginia.

Q. How long have you resided in Arlington? A. In Arlington and Alexandria since approximately 1945.

Q. What is your occupation, Mr. Boykin? A. An attorney.

Q. How long have you been so engaged? [4791] A. I finished law school in 1948.

Q. And you are admitted to the bar, are you? A. I am, District of Columbia and South Carolina.

Q. Do you know the defendant Frank Boykin in this case? A. I do.

Q. Are you related to him? A. I am not related to the Congressman in any way.

Q. In 1958 did you know him? A. I did.

Q. Are you familiar with the tract of ground near Waldorf, Maryland which Congressman Boykin had an interest in? A. I am.

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[4858] By Mr. Williams:

Q. Now, I had asked you whether or not there came a time when you were retained by a prospective purchaser of the Waldorf tract in 1961? A. In 1961 there came a time when I was retained by a gentleman who attempted to buy the stock of these land companies. Is that the matter to which you are referring.

Q. Were you paid by the Feda Realty Corporation? A. Yes.

Q. When did that take place, sir? [4859] A. Some time in November of 1961.

Q. Tell us how that came about.

(Mr. Genn) If the Court please, so I will not interject in this line of questioning. This is not at all material to the case. I will object to Mr. Williams' proceeding at least as to this particular defendant.

(The Court) I do not know what the materiality is. "Retained. some later."

(Mr. Tydings) Maybe we had better approach the bench and Mr. Williams can make a proffer.

(At the Bench.)

* * * * * *

[4862] (Mr. Tydings) If Your Honor please, if they open this up, then the Government feels we have a right to cross examination to show that this was a phoney sale and that the price was—

(Mr. Williams) You make that statement in front of the jury.

(The Court) If that is Mr. Genn's objection, I will allow the evidence in but neither this evidence nor any cross examination in connection with it will be admissible against Edlin.

(Mr. Williams) Are you charging now, Mr. Tydings, so the record will be clear on this, that this was a phoney sale—is that correct?

(Mr. Tydings) Let me explain exactly what I mean. That the consideration above the purchase money mortgages and mortgages from the savings and loan in the amount of some $7 million or $8 million worth of notes to the Illinois Mortgage Corporation was completely watered, was settled in 1962 for $180,000 or $200,000. That is $7 million or $8 million worth of notes and for that reason we feel that it is not valid.

(The Court) Then the whole thing can come in except Edlin or anybody else.

* * * * * *

[4864] (In open court.)

(The Court) As a result of this for the time being I am going to tell you not to consider any of this evidence that is about to come in as against Mr. Edlin nor any cross examination which the Government may give in connection with this should not be considered as any evidence for or against Mr. Edlin. No other persons have objected except the Government.

I will overrule the government's objection and the evidence that you will now hear and any cross examination or rebuttal of this evidence that may come in will be admissible for or against each of the other three defendants, Johnson, Boykin and Robinson.

If anything should develop which would make me change my ruling with respect to Edlin, the Government may so move and I will hear Mr. Genn. Of course, something might happen which would make it material to Mr. Edlin. But, as presently advised and on the proffer, I sustain Edlin's objection as to him.

All right. Go ahead.

[4865] By Mr. Williams:

Q. Mr. Boykin, I was asking you about your representation of the Feda Realty Corporation. A. Yes.

Q. You began that in 1960, November, right? A. 1961.

Q. 1961, I am sorry, November, right? A. Approximately November of 1961.

Q. Who was president of that company? A. Mr. Francis J. Finneran.

* * * * * *

[4866] By Mr. Williams:

Q. Did you represent them in negotiations for the Waldorf tract about which you have testified here today? A. Yes, but these were negotiations simultaneously for the stock of the two land companies.

Q. When you say the "two land companies," which do you mean? A. Charles County Land and Leisure City.

Q. When you began to negotiate for Feda Realty Land Company with whom did you negotiate? [4867] A. When I was negotiating for and on behalf of Feda Realty for the purchase of the stock.

Q. For whom did you negotiate, who was speaking for Charles County and Leisure City? A. Mr. Edlin and Mr. Robinson.

Q. During what period of time did these negotiations take place? A. November-December of 1961.

Q. Did there come a time when Feda Realty did in fact, buy all of the stock of Charles County Land Company and Leisure City Land Company? A. There did come such a time December 7, 1961.

* * * * * *

[4869] By Mr. Williams:

Q. Mr. Boykin, will you, for the purpose of the jury, summarize the agreement which was entered into on December 7, 1961, between your client—Feda Realty Co., and Charles County Land Company and Leisure City Land Company. A. Yes, sir.

Mr. Williams, the agreement dated December 7, 1961 was entered into between the Feda Realty Corporation [4870] as one party, and International Electronics Oil Corporation as the other party for the purchase of all of the stock of Charles County Land Company and Leisure City Land Corporation. The purchase price above all purchase money mortgages, the purchase money mortgage being approximately $5,875,000, at Waldorf and $2,875,000 remaining to be paid at Brooke, and in addition to loans that had been effectuated during this interim period between First Colony Savings and Loan Association and Charles County Land Company, Inc., in the gross amount of $3,750,000 under which $1,250,000 was represented to have been drawn down under that loan, an $843,750 loan,

between First Continental Savings and Loan Association and Leisure City Land Corporation, and a representation was made that the sum of $453,750 was drawn down under that loan. This meant briefly—

(The Court) Drawn down by whom? You mean had been drawn down by the Land Company?

(The Witness) By the land company, yes.

(Mr. Genn) Your Honor, I stated I have an objection to this line. This entire line. I presume that is the Court's ruling.

(The Court) Of course, your objection holds unless and until there is some motion by the Government to the contrary. Go ahead.

[4871] (The Witness) So briefly, this was the purchase of the stock of these two land companies for $6 million with the assumption of the two purchase money mortgages and the assumptions of those amounts of money which had been drawn down under the savings and loan association loans to the respective land companies. Now, there were major representations—

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By Mr. Williams:

Q. What, Mr. Boykin, was the amount contracted to be paid first of all, for the stock of the two companies? A. $6 million in excess of all existing obligations.

Q. What obligation existed on the books of the Charles [4872] County Land Company at the time that its stock was bought. How much did it owe? A. It owed the sum of $5,875,000 to the Ernest Estate. Albert Ernest had passed away at this time.

Q. That was the purchase money mortgage that we have been talking about this afternoon? A. Yes.

Q. Did it have any other debt on its books at the time, of December 7, 1961? A. It did.

Q. What was the amount of the debt? A. $1,250,000.

Q. What was the amount of the mortgage on the Leisure City Land Company at the time? A. $2,875,000.

Q. What was the amount of the debt on the books of Leisure City Land Company? A. $453,750.

Q. Did Feda Realty Corporation assume the mortgage, debts and the other two debts which you have just enumerated? A. They did. They necessarily had to because they were debts of the corporation control of which they—

Q. Have you made a computation of the total?

[4873] (The Court) You say that they specifically individually assumed the debts? You said they necessarily had to, or did you mean the land companies?

(The Witness) The land companies in the purchase of the entire thing, Your Honor, they necessarily had to assume.

(The Court) Did they assume personal responsibilities?

(The Witness) No, there was not personal liability except for a portion of this that I will be most pleased to explain.

(Mr. Williams) I propose to show, Your Honor, they assumed it because they paid it.

(The Court) The question is, under the contract did they assume it, and to assume means that you undertake personal responsibility for paying it and not that you buy something subject to a lien.

(Mr. Williams) Your Honor, this will not rise very high in importance because the fact is that they made payment on these debts.

(The Court) All right.

(Mr. Williams) Now, let me ask you this, Mr. Boykin:

Did the two land companies own any assets in the

[4874] whole world in December 1961, other than the two pieces of ground, one at Waldorf and one at Brooke? A. Not to my knowledge.

(The Court) You mean there had been no improvements on them at all?

(The Witness) No improvements were made that I was aware of.

(The Court) What had the money been drawn down for, then?

(Mr. Williams) I am going to bring that out, Your Honor. I think this is an exciting subject, too, and I want to develop it and bring it out.

* * * * * *

(Vol. 37 [4890]) Q. Now, I am going to ask you, Mr. Boykin, first of all, a general question and then I will ask [4891] some specifics with respect to this agreement.

Generally, what did Feda Realty Corporation, represented by you, agree to do under the terms of that document? A. Under the terms of this document Feda Realty Corporation agreed to pay to International Electronics and Oil Corporation $6 million for all of the stock of Charles County Land Company and Leisure City Land Corporation.

Q. Now, the next question that I will ask you, and then I will get into the method of payment, is, what was the existing indebtedness owed by Charles County Land Company on the purchase money mortgage on the Waldorf tract to Albert Ernest at the time of this agreement? A. There was the amount of $5,875,000 owing to the Estate of Albert Ernest, Mr. Ernest having passed away at that time.

Q. Did that obligation remain an obligation of Charles County Land Company under this agreement? A. It did.

Q. Did Feda Realty Corporation assume on its own a further obligation toward that money, that indebtedness?

* * * * * *

[4892] By Mr. Williams:

Q. It remained an obligation of Charles County Land Company? A. Yes.

Q. Feda became the sole stockholders of Charles County Land Company? A. Yes.

[4893] Q. Now, did the indebtedness of $2,875,000 of the Brooke, Virginia property, the indebtedness running from Leisure City Land Company to the Tensaw Land and Timber Company remain an indebtedness of the Leisure City Land Company after this agreement? A. It did.

Q. And who became, under the terms of this agreement, the sole stockholder of the Leisure City Land Company? A. The Feda Realty Corporation.

* * * * * *

[4900] Q. What happeneded after the execution of this agreement with respect to the two savings and loan associations which you have mentioned—First Continental and First Colony? A. Not too long after this transaction was closed December 7, 1961, First Continental [4901] Savings and Loan Association was placed in receivership under the laws of the State of Maryland.

Q. What about First Colony? A. My recollection is that First Colony was first placed in a conservatorship and it was later changed to a receivership.

Q. Did International Oil and Electronics Corporation fulfill its agreement or its commitment spelled out in Defendant Boykin's Exhibit 33, to make available the development money for the two tracts of ground which you told us about a few answers ago? A. No, I considered that was a breach of representation in accordance with the provisions of this agreement.

Q. What happened after the two savings and loan associations were placed in receivership and the development money was not forthcoming to Charles County and Leisure City? A. Numerous negotiations were held between rep-

resentatives of International and representatives of Feda with regard to the question of settlement, of this $6 million which was the excess on the purchase price. We had various when, as and if type of settlements, none of which was ever concluded until 1963.

Q. In 1963? [4902] A. Right.

Q. Now, would you tell the Court and the jury precisely, Mr. Boykin, what the final terms of renegotiations on this deal were? A. On the payment of the $6 million?

Q. Yes, sir. A. One of the $50,000 personally confessed judgment promissory notes signed by Mr. Finneran was payable at the rate of $500 per week. All three notes were payable at the end of two years. This was the only one of the three that had continuing payments with regard to it. Approximately, according to my information, $6,000 was paid on that $50,000.

(The Court) I did not hear that.

(The Witness) $6,000 was paid, approximately, on that $50,000, Your Honor. This, combined with the $100,000 cash payment made on the 7th of December, 1961, and a further payment made on November 9, 1962, in regard to some of the settlement agreements of $6,000, and a final payment of $185,000 in cash on the 11th of February, 1963, plus an additional $12,000 in cash on the 13th of February, 1963, come to the total cash amount paid by Feda of $309,000 for the settlement of all outstanding differences between Feda and International.

Also, on the 13th of February, 1963, the [4903] sum of $5,000 was paid as a partial payment on the real estate commission to the James L. Dixon Company. My computation shows this total to be $314,000 in cash.

By Mr. Williams:

Q. Now, sir, what did Feda do—let us specifically say Charles County Land Company—with respect to the indebtedness on its books of $1,250,000 running to First Con-

tinental Savings and Loan Association? A. This was a very, very difficult thing for Mr. Finneran and Feda because shortly after taking over the stock of Charles County and Leisure, it was almost impossible to obtain any improvement funds. We felt that the savings and loan association had breached this agreement because it had committed itself to make available $3,750,000. There was an audit prepared under the Court Order and the audit showed that the sum of $649,957.12 was all that had been drawn down under this $3,750,000 loan. Accordingly, Mr. Finneran on the 31st of December of this past year, 1962 made payment in full in cash of $649,957.12 to a combination of First Colony and First Continental Savings and Loan Association, as this was a joint venture.

(The Court) To the receivers or conservators, whoever it was?

[4904] (The Witness) Yes, sir.

By Mr. Williams:

Q. Who was it, Mr. Boykin, that determined that it was exactly $649,957.12 that had been, in fact, advanced to Charles County Land Company by First Continental? A. The receiver informed us that this was the amount.

Q. Who was the receiver? A. Mr. John McKeever.

* * * * * *

[4905] By Mr. Williams:

Q. Now, Mr. Boykin, was there any determination as to the use to which the $649,957.12 had been put?

(Mr. Genn) I have an objection to the entire line.

(The Court) I know you have, Mr. Genn, and I have overruled it up to this point. If you want to object to this, I will require a proffer as to the materiality of this to Mr. Williams. You want a continuing objection? I cannot give you a continuing objection but when I come to a point which I think you may have, and I understand

your position, I am giving you an opportunity. Do you wish to object to this or not?

(Mr. Genn) Yes, of course.

(The Court) Now, Mr. Williams, come up and make a proffer on this.

(At the Bench.)

(The Court) Mr. Williams, will you tell me what is the materiality of the use which has been made of this? If it was an amount it was agreed had been advanced and these people paid, how does its use affect any issue in this conspiracy? Would it make any real difference to any issue in this case even the value, whether [4906] it had been, well, whatever had been done to it.

(Mr. Williams) I think it is material, Your Honor, because I think that if Charles County Land had used the money to develop the ground—

(The Court) Has any of it been used? I thought you got that in. I thought it was said that none of it was being used to develop.

(Mr. Genn) The Court brought it out.

(The Court) I think you have got it and it ought not to be re-emphasized. Therefore, I will sustain the objection which was interposed on Mr. Edlin's behalf.

* * * * * *

[4907] (In Open Court.)

(The Court) The Court is sustaining the objection to this question because I think it was asked yesterday and if someone feels that any correction should be made in the answer given yesterday on this point, the Court will sustain the objection which I think the Court interposed.

(Mr. Williams) Your Honor, I cannot recall whether it was answered yesterday or not. May I just look?

(The Court) Yes, I think it is page 4874 of the transcript, is it not?

I think it is on page 4874, the answer was "No improvements were made that I was aware of."

[4908] Now, I think that is as far as it went.

(Mr. Williams) Yes, sir.

By Mr. Williams:

Q. Now, Mr. Boykin, did you on behalf of Leisure City Land Company have discussions with McKeever of First Continental in an effort to determine the true amount owing from Leisure City to First Continental on the indebtedness of $453,750? A. Indirectly I did. Primarily through advising my client, Mr. Finneran. He conducted most of these discussions with Mr. McKeever.

Q. Has there been a determination by Mr. McKeever as the receiver or by his auditors as to the exact amount owing from Leisure City to First Continental? A. As I recall, having looked at the audit report, out of the sum of $449,750, which the individual records claim to be due and owing by Leisure City to First Continental, the auditors themselves said that the sum of $106,000 can not be justified in their opinion as a proper charge against this loan because it had been used to pay salaries of officers of one of the associations, First Continental. There was an originating commission on this particular loan of $156,250. Since this money [4909] was never made available, we certainly did not feel that this was a proper charge.

There was a third amount of $62,500 which was interest in advance on the total amount of the loan. That is $843,750.

In our strong opinion only $125,000 was ever advanced by the association to Leisure City. This argument we made to the receiver. The receiver accepted our argument on this.

The receiver now has a court order authorizing Leisure City loan to be settled, if done so within a period of six

months from the date of that Court Order for a total sum of $125,000.

Q. Now, Mr. Boykin, in your negotiations with International Oil and Electronics Corporation, looking toward the renegotiation of Defendant Boykin's Exhibit 33, with whom did you deal? A. At the beginning we dealt with Mr. Robinson and Mr. Edlin primarily.

Q. And over how long a period did you negotiate with them? A. Over a very considerable period of time after the closing and sale of December 7, during most of 1962 we dealt primarily with Mr. Edlin and Mr. Robinson and then there was an attorney in Chicago—two attorneys [4910] in Chicago that we also negotiated with.

At one stage Mr. Robinson seemed to be taken completely out of the picture and the attorneys in Chicago seemed to have a great deal of jurisdiction from a legal point of view. As I recall, his name was Mr. Teton.

Q. Other than the failure of International Oil and Electronics to make development loans available to Charles County and Leisure City, was there any other breach of the agreement numbered Boykin Exhibit 33 which you urged in the settlement discussions? A. As I recall, there were several breaches, there were a major number of representations set forth in this agreement, as would normally be the case with regard to the purchase of the stock of any corporation.

Representations, for example, with regard to amounts that were due and owing; representations as to the assets of the corporation, replete with representations.

(The Court) Is this material to the issues? Is this material, Mr. Williams? If it is, I want it in. I do not think we ought to go into side issues.

(Mr. Williams) I think a portion of it is, Your Honor.

[4911] (The Court) Why don't you ask a leading question on the portion you think is material?

(Mr. Tydings) We think it is material, Your Honor. We think that the representations by Mr. Finneran should be in front of the jury.

(Mr. Genn) I presume I have the same objection.

(The Court) I instruct the jury that none of this evidence is admissible for or against Mr. Edlin and I will give you further instructions on that when I come to my charge. But both the Government and Mr. Williams assure me that there is material evidence coming in and I think it should come in.

(Mr. [illegible]lliams) I will state it at the bench.

(The Court) If you and Mr. Tydings agree on it, and with the understanding it is not for or against Mr. Edlin.

* * * * * *

[4912] We were informed that if there was any cash in the bank account at that time that this sale of stock was a sale on the basis of the representations made in that agreement and on the basis of no cash in the bank as of that date.

Q. Now, what did you ascertain happened with respect to the bank account or bank accounts of Charles County Land Company after December 7, 1961? A. We were surprised to learn, after we had paid the receiver the $649,000-odd in the beginning of 1963—no, on the 31st of December, 1962—that we began to get back some parts of the books and records of these companies.

One of these showed that approximately $25,000 had been drawn out of the Association and placed in the account of Gotham Bank in New York City, the account of Charles County Land Company. Subsequently checks were drawn on that account.

Q. At the time that Feda Realty Corporation took over Charles County Land Company, were you made aware in the course of your negotiations that there was such an account in the First Gotham Bank of New York? A. We

had no knowledge of it and no information was given to us at that time.

* * * * * *

[4913] (Mr. Genn) May we approach the bench?

(The Court) Yes.

(At the Bench.)

(The Court) What is the point, Mr. Williams?

* * * * * *

[4916] (Mr. Williams) I do not think we made clear to you why we offered it, Your Honor.

(The Court) You certainly have not.

(Mr. Williams) The objections came so fast here. You see, Your Honor, I think this is very relevant to Boykin's defense, and I readily subscribe to the fact that it may be damaging to another defendant and it is not offered for that purpose but that is one of the problems we have.

[4917] (The Court) Why is it material to Mr. Boykin?

(Mr. Williams) Because it shows, Your Honor, on the overall issue of the fair market value of the land, it shows that the reason that International Oil and Electronics, speaking through Defendant Edlin, was willing to negotiate its deal down so far so fast was because—

(The Court) The received negotiated it. Not Mr. Edlin.

(Mr. Williams) No, we are talking about the $6 million being negotiated down.

(The Court) To what?

(Mr. Williams) About $300,000.

* * * * * *

[4921] (Mr Genn) It is just as prejudicial as it is in. He would only show it further by putting in the evidence.

(The Court) I am trying not to re-emphasize prejudicial material if it is in for Mr. Boykin's purposes and he can

get his facts in that he feels are necessary for him and I have instructed the jury that they are not admissible for or against you.

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[4924] By Mr. Williams:

Q. Mr. Boykin, during the negotiations that you held with International Oil and Electronics looking toward the renegotiation downward of your obligation to pay $6 million for the stock of Charles County Land and Leisure City Land as evidenced in Boykin's exhibit 33. It is not the fact that you used as a bargaining level the episode regarding the withdrawal of funds from the First Gotham Account, funds which had been advanced by the savings and loans after December 7, 1961? A. That was one of the factors—

(Mr. Genn) I will object on that, Your Honor.

(The Court) Overruled. I will again instruct the jury that the fact is not admissible [4925] for or against Mr. Edlin.

* * * * * *

[5019] FRANCIS J. FINNERAN

a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Williams:

Q. State your name for the jury, please. A. Finneran, F-i-n-n-e-r-a-n. Francis J.

Q. Where do you live? A. Greens Farm, Connecticut.

Q. How long have you lived there? A. Six years in this home.

Q. What is your business? A. Real estate development and investment.

Q. How long have you been in that business? A. Roughly 25 years.

Q. Are you here in response to a subpoena served on you? A. Yes.

Q. During your 25 years in the real estate investment and development business, have you, or have you not developed tracts of ground for residential purposes? A. Many times, Mr. Williams.

* * * * * *

[5021] Q. What factors were there which interested you if you were interested in the Waldorf tract? A. Well, of course, I have always considered this Waldorf tract's vital value to be in the accumulation of this property, which is the largest single tract this close to any metropolitan city in the country, available as one piece, you see.

Q. What was the acreage in 1961 of that tract? A. Very close to 8,000 acres.

Q. What other factors were there, if any, which interested you in this tract? A. I was very happy with the financing arrangements that were part of the selling arrangements.

Q. What, particularly, in financing interested you, sir? [5022] A. Of course, it was a long-term financing arrangement on the purchase money mortgage. There was an improvement loan at that time standing supposedly available for the eventual improvement and development of the property.

Q. Did there come a time when you entered into an agreement or understanding with Mr. Edlin? A. Eventually, yes.

Q. Was Mr. Edlin represented by counsel during these discussions? A. Yes, many different counsel.

Q. Were you represented by counsel? A. At the last hours of the negotiation.

Q. Who represented you, sir? A. Mr. Lykes Boykin of Boykin and De Francis in Washington.

Q. When you arrived at an agreement or an understanding with Mr. Edlin, did you agree to buy the stock in the

existing land companies or did you buy the land titles from him? A. No, I purchased all the stock of these two companies, Leisure City Land Company and Charles County Land Company.

Q. And from whom did you make this purchase? A. From Mr. Edlin.

[5023] Q. Well, was it Mr. Edlin, personally, and individually, or was it a corporation that he was representing? A. No, it was a corporation that involved International Oil and Electronics.

Q. Did he speak for that corporation? A. Yes.

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[5058] REDIRECT EXAMINATION

By Mr. Williams:

Q. Mr. Tydings addressed a question to you regarding the fact that you bargained Mr. Edlin down from the contract of December 7, 1961 to the figure which you finally paid him for the stock. What were the bargaining factors that you had which you employed to do that, sir?

(Mr. Genn) Same objection.

(The Court) Again I must have a proffer on that to show its relevancy to any issue in the case.

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[5062] (The Court) . . .

* * * * * *

Ask him as a leading question and tell him to answer.

(In open court.)

* * * * * *

By Mr. Williams:

Q. Mr. Finneran, were the factors which induced the reduction in the price of the stock of Charles County Land and Leisure City land to Feda, the fact, No. 1, that the development loan money which had been committed in the

December 7, 1961 agreement, was not forthcoming, and that there had been a $25,000 takeout of Charles County Land Company by the old officers after December 7, 1961? [5063] A. That is the case, sir.

(Mr. Williams) That is all.

* * * * * *

(Vol. 38 [5069]) (Mr. Williams) Yes, sir.

Thereupon

FRANK W. BOYKIN

a defendant, appearing as a witness in his own behalf, being duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record, Mr. Boykin.

(The Witness) Frank W. Boykin.

DIRECT EXAMINATION

By Mr. Williams:

Q. Mr. Boykin, will you state your full name for the Court and the jury, please. A. Frank W. Boykin.

Q. Where do you live, sir? A. Mobile, Alabama.

Q. How long have you lived there? A. Fifty years.

Q. Fifty years? A. Yes, sir, fifty years.

Q. How old are you now, Mr. Boykin? A. I will be 89 in February.

Q. Eighty-nine? A. Seventy-nine.

[5070] Q. Seventy-nine in February? A. Yes, sir, born in 1885.

Q. Are you married, Mr. Boykin? A. Yes, sir, my wife is sitting right over here. It will be fifty years in December; right there.

* * * * * *

[5075] Q. When was it that you were first elected to Congress? A. I beg your pardon.

Q. When were you first elected to the Congress? A. 1934.

[5076] Q. And how long did you serve in the Congress? A. Twenty-eight years. Longer than any other man—any other man served in the House from Alabama. I was elected fourteen separate and distinct times.

Q. And when were you defeated, sir? A. Sir?

Q. When were you defeated? A. When this thing came up last year.

Q. What year was that? A. 1962.

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[5094] Q. Did there come a time when you had a conversation with Mr. Johnson, a defendant in this case, about the Waldorf tract? A. Congressman Johnson, yes, sir. It was just when Congressman Johnson was—it was when Congress convened in January, early January, January 6th, I was talking to Tom about this trouble we were having in collecting our money from Mr. Desser at Waldorf, Maryland, and he told me that he knew of some people that he thought would be glad to finance Mr. Desser, if they could make the proper arrangement. Some people that he was working with to finance a bridge on the Eastern Shore of Maryland.

Q. Did he tell you what, if any relationship he had to the people that he was mentioning to you? [5095] A. He said that he was representing their five properties that they were working on and they had several in Maryland under construction at that time that Mr. Edlin was the banker, and the financier and the adviser on.

Q. Did he tell you who the people were to whom he made reference? A. No, he did not. I asked him if he would bring them in and he said he would so I could talk to them, and he did in the next few days.

Q. Can you tell us when, Mr. Boykin, he brought these people in to you? A. I would not have remembered it, but I looked it up. It was January 6, 1961.

Q. Who was it? A. Mr. Kenneth Edlin.

* * * * * *

[5106] Q. Will you tell His Honor and the jury how many meetings you, yourself, attended regarding the proposed loan from the Edlin group to the Desser and Garfield group? A. Mr. Williams, I imagine I went to a dozen meetings.

Q. Over what months were these? A. Oh, all of those months. They were right—all the time, right from January, about the 10th, I think when—maybe the 15th—right on up until they closed the deal. They did not get together. Mr. Edlin I believe, and all the rest of them had wanted the same thing—fifteen per cent. Mr. Desser would not pay it and Mr. Desser wanted the right to O.K. all the money he was going to furnish, $2,300,000 and he wanted the right to O.K. how Mr. Desser was going to spend [5107] every nickel of that money and what information—

Q. You said Mr. Edlin wanted fifteen per cent. What do you mean by that? A. Interest on the money.

Q. What do you mean, he wanted the right to O.K.? A. Well, if he is going to spend so much on a golf course, Mr. Edlin would want a right to approve any amount he spent on that or anything else of the money that he was loaning.

Q. Was this acceptable to Mr. Desser? A. No, sir.

Q. Did the negotiations go forward to consummation or did they break down? A. They blew up.

Q. Now, did there come a time, Mr. Boykin, when Mr. Edlin made a different proposition from the loan proposition that he had advanced? A. Yes, sir. He agreed to pay Desser and Garfield $150,000 for all the stock and their interest in the proposition and to pay Albert Ernest

$130,000 and he brought over two certified checks for that purpose.

* * * * * *

[5108] Q. Was there a time limit placed on the acceptance of this proposition? A. Yes, sir. They gave a certain time to accept, return the checks.

Q. Within that time did you, in fact, reject the deal? A. Yes, sir. Both Mr. Desser rejected the deal and Colonel Ernest rejected the deal.

Q. Well, Mr. Boykin, thereafter, did you have [5109] any dealings with Mr. Desser regarding his making a payment on the mortgage? A. I did.

* * * * * *

He said, "What had Edlin offered you as a payment down on this proposition?"

I said, "$125,000."

He said, "Would you accept $100,000 from me and let me go on and not foreclose?"

I said, "I will be delighted to do it."

* * * * * *

When I went to go, Mr. Desser said, "Frank, I would like to do this this way. I would like to pay you $25,000 now, and $25,000 in thirty days and thirty days and thirty days, and not pay the $100,000 now."

[5111] That is when it blew up again.

Q. What did you say to him? A. I did not say anything then. I just got up and walked out. I had been oh, well, been fooling with him for four or five years, you know, and promises and promises and never any of them come through. There was a banker to give him the check and every time I made a deal with him, he wanted to change it just a little, and get just a little better deal.

Q. Now, thereafter, did you, in fact, make a deal with Mr. Edlin's group? A. Yes, sir.

Q. Can you fix that in point of time? A. We had been practically agreeing if anything happened, all the time—I think this was in April, Mr. Williams—April, 1961—I think that is when it was.

Q. Now, what did Mr. Edlin agree to pay? A. Provided we changed the mortgage to the way he wanted it, and what else—extend the time, that he would let me keep not only the pine timber on the land, but the hard wood, too, and the gravel. He would have a right to use whatever sand and gravel needed in his housing and in his development. And that he would pay up the interest on the mortgage of $125,000. And that he would pay the expenses of foreclosing the [5112] mortgage, which was pretty rough, the foreclosing.

* * * * * *

Q. And did you make a deal with him on the Brooke, Virginia tract? A. Identical. The same time, the same night and the same moment that we made it on the Waldorf tract.

Q. And what were the terms of the deal on the Brooke, Virginia tract? A. Our price on the Brooke, Virginia tract was $4,250,000. I showed him a contract I had made with a developer, Mr. Sigmund Pines, and showed him the maps [5113] and the drawings and the marina, the plans that Mr. Sigmund Pines had had his engineers to draw, but he never would agree to give but $3 million for the 5,000 acres and us reserve the timber and the gravel—for him to use all he needed of it.

Q. How long did you negotiate with him on this? A. At the same time I did but we reserved the timber which was worth $500,000. We had over 100,000 cords of pulpwood at $5 a cord.

Q. What did he agree to pay you for Brooke? A. $3 million.

Q. And under what terms? A. The same as the other property, $125,000 down and seventeen and a half years to pay the other at one per cent.

* * * * * *

[5129] By Mr. Williams:

Q. Taking you back, Mr. Boykin, to early 1961, was there a time when you had a conversation with either Mr. Edlin or Mr. Robinson about what we have referred to in this trial as the Dranow Treasury note? A. Yes, sir, it was Mr. Edlin.

Q. About when was that? A. Oh, that was soon after I met Mr. Edlin.

Q. Now, thereafter, did you have a conversation with Mr. Robert Kennedy regarding this subject? A. Yes, sir, I did.

Q. Where did that conversation take place? A. My wife and I were having dinner with the Kennedys in their home. Quite a group was there. I remember the Secretary of the Treasury and his folks were there and after dinner the subject of Jimmy Hoffa came up, and [5130] Mr. Edlin had told me about buying a United States Treasury Note for $80,000—a $100,000 Treasury Note—and he said later he found it was a stolen treasury note and they were suing him for it. He was having a terrible time. He had to go to Miami about it. He happened to tell me about it when we were driving over the properties.

After dinner, when they were talking about Jimmy Hoffa, I just casually mentioned this to the Attorney General, Robert Kennedy, and told him what Mr. Edlin had told me.

He asked me if he could send a man up to my office to get more information on this. I told him that I did not know—that was all I knew but that Congressman Johnson represented this group of bankers and people and that I was sure he would be glad to help, too.

So, that is what happened there, Mr. Williams, and he said he would like to send a man up to get the information.

Q. Now, at the time that you told Mr. Robert Kennedy about the Dranow treasury note, did you, Mr. Boykin, know that Mr. Edlin was under indictment? A. I did not.

* * * * * *

[5133] Q. Now, what did you do when you found out that

Mr. Edlin was under indictment? A. I called Congressman Johnson.

Q. What conversation did you have with him? A. I asked Tom to hurry and come up to my office; I had something pretty important to tell him. He came right up. I told him, and he said, "Well, let us get Mr. Edlin as quick as we can and confront him with this [5134] information."

And either he or I called and Mr. Edlin and Mr. Robinson came right on up. I was trying to get the Dranow matter for them at that time but I had not gotten it.

That was about two weeks after we had been out to the Attorney General's house.

* * * * * *

[5136] By Mr. Williams:

Q. Had you asked for a memorandum on the Dranow treasury note? A. Yes, every day, and every night from the day Mr. Sheridan came up to get it. The Attorney General sent him up to get the information that I had given him about this Dranow note that Mr. Edlin had told me about.

[5137] Q. Did you finally get a memorandum on the Dranow treasury note? A. Well, we had a little fuss about it, and—may I tell you about it?

Q. Did you get it? A. Finally.

Q. When did you get it? A. I got it that night.

Q. What did you do with it? A. Sent it down by messenger to the Department of Justice, and I never read it. I had had an awful lot of trouble in getting it because they did not want to give me this note because Mr. Edlin said he did not want to have Jimmy Hoffa and Bob Kennedy both against him.

I kind of sympathized with him.

Q. I am going to hand you, Mr. Boykin, an exhibit which has been received in evidence, marked Government exhibit

90 and ask you whether that is the memorandum you received, or a thermofax copy of it? A. Didn't I send a letter with it? Yes, sir, that is my writing on there, to Herbert Miller. Yes, sir, that is it. I never read it.

* * * * * *

[5138] Q. Mr. Boykin, at the time that you sent the memorandum to the Department of Justice, had you yet seen the Attorney General regarding the Edlin indictment? A. I had not.

Q. To whose attention did you send the memorandum regarding the Dranow note? A. Whose what?

Q. To whose attention? A. Mr. Herbert Miller. I think I sent two. I think I sent one to the Attorney General and one to Mr. Miller.

* * * * * *

[5139] Q. Mr. Boykin, did you know at that time that a memorandum regarding the Edlin indictment was in the process of being prepared? A. I did not. I had never heard about it until that day when I am telling you about now, when we did get the memorandum.

Q. Did there come a time when Mr. Edlin, or Mr. Robinson explained to you the circumstances regarding the indictment pending in Maryland? A. They did it that very day.

Q. What was said? A. Well, Mr. Edlin told me about the Chicago proposition. I think he said it happened 30 years ago when he was a young man, and he told me the case and the cause and so forth and so on.

(Mr. Genn) Your Honor—

(Mr. Williams) Talking about the Maryland indictment.

(Mr. Genn) The same objection.

(The Court) Overruled. This is a conversation a [5140] day or so before he went to the Attorney General.

* * * * * *

[5148] By Mr. Williams:

Q. Now, Mr. Boykin, on March 25, did you go to the Department of Justice? A. Yes.

Q. And did you go with Mr. Johnson? A. Yes, sir.

Q. Did you see the Attorney General on that day? A. I did.

* * * * * *

[5149] Q. And what was said to the Attorney General? A. Well, he came out in the hall to meet me and Mr. Robinson was with us, also, with Congressman Johnson and me, and we spoke and I introduced him to Mr. Johnson and told him that he represented the properties, the Edlin group, and then I asked him about Ethel and the children and his father, and he asked me about Ocella, my wife and then we went into his office. We carried the plans and the pictures and the maps, the drainage maps and all the maps.

Mr. Robinson had two arm's full. We took them into the Attorney General's office. Mr. Johnson talked to him about the indictment. For sometime they talked about that. I did not say anything about that. I am not a lawyer as you know. Then I told him about the great development that we had hoped to put on and that Mr. Edlin's people had agreed to finance to the tune of $2,300,000 and about the Brooke property.

I showed him the pictures, the very beautiful drawings of Boykin City, that the architects had prepared. That was what they were going to name the city in Maryland that joins Waldorf, Boykin City. I showed him the waters and told him how much waterfront we [5150] had—we had fifteen miles in Virginia, and all about it.

I did not talk to him about the indictment except to tell him that we were told that it was a faulty indictment and that we would like to have the Department of Justice review the indictment to see if it was a faulty indictment.

Q. Did you ask the Attorney General to quash the indictment? A. Oh, no, no, he told you that here. I never asked

him anything but what I told you, to review it to see if it was a faulty indictment, which they all thought it was. And I told him that.

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[5155] Q. Did you have thereafter any meetings with Mr. Miller? A. Yes, a good many.

Q. What was the subject discussed at those meetings? A. Most of it was about the Hoffa and Dranow note. I guess maybe 75 or 80 per cent, but they were about the same thing. I did not at the first meeting, when we met him, we did not get to go into details because we had been there a long time, and at the second meeting Congressman Johnson talked about the law and the indictment, and I talked to him about the development of the land and showed him these same pictures you had and the maps, and told him all about it.

Mr. Miller was a Maryland man. He was very [5156] much interested in the development in Maryland.

Q. Did there come a time when Mr. Miller made any disclosure to you concerning Mr. Edlin's prior record? A. Yes, sir.

Q. What happened on that occasion?

(Mr. Genn) Same objection.

(The Court) Overruled.

(The Witness) He asked us to come down that he had some information that he wanted to give us.

Congressman Johnson and I went down. He had a memorandum there, a file about six inches thick, and he said that the record showed there that Mr. Edlin had been convicted two or three times, and, of course, we were flabbergasted and we told him that this shocked us and we had no more to say. We got up and left and went back to the Capitol, Mr. Johnson and I.

By Mr. Williams:

Q. What did you do when you went back to the Capitol? A. We called Mr. Edlin. Tom called Mr. Edlin and asked him to come over at once and he and Mr. Robinson did come over.

Q. What happened then? A. Well, we went into this. We were very much [5157] upset naturally, Mr. Williams, and we told Mr. Edlin that we thought it was terrible that he had not told us about this. He said it was not a bit of it true. That he had served a term many years before, about thirty years before, and all of the rest of this was not true and would I allow him to use my telephone.

I told him I would. He put in a call to Chicago. Used his credit card and called someone out there in the government and talked to him. He did not get him right then. The man was out but said he would be back in fifteen minutes.

About fifteen minutes, the call came in and I answered the phone, handed it to Mr. Edlin and he talked to the man five or six minutes and he says, "Will you tell that to Congressman Boykin?"

I talked to a man, he said his name was Meyer, and he had been the man that had looked after Mr. Edlin when he was having his trouble and said it was not true, that Mr. Edlin had not served any two or three terms. He was his parole officer.

He said he had served one term a long time ago, and he talked about it at length and I asked him if he would tell that to the Department of Justice, and he said he would be glad to. That is all I said and handed it back to Kenneth Edlin who was sitting on my right and they [5158] talked at length. That is all that happened then.

Q. What happened thereafter? A. Well, Mr. Edlin and Mr. Robinson and Mr. Johnson brought Mr. Meyer into my office and they asked me if I would go down and introduce him to Mr. Miller, Mr. Meyer, the parole officer.

I told him I would be glad to and we all went down.

Mr. Robinson went down with us. We introduced him to Mr. Miller and Mr. Miller told Mr. Robinson to take him down the hall where the man would interview him.

* * * * * *

Q. Mr. Boykin, did you have any further conversation with Mr. Miller?

* * * * * *

[5159] A. Oh, yes, a good many, I think. I cannot tell you the exact dates but he would call us. He was very much interested in the Dranow note and he wanted Mr. Edlin and Mr. Robinson to go to Miami and testify against Dranow and Hoffa before the Federal Grand Jury, and it took up an awful lot of time getting that arranged.

I will tell you about it. First, Mr. Edlin and Mr. Robinson went and the day they got there, the grand jury adjourned. They paid their own way, they told me.

Q. Just tell us what you know. A. All right. And then Mr. Miller called me back and said that he would see that that did not happen again and would they go again.

I said "I will find out." They did not want to go. I doubt if anyone wants to go before the Federal Grand Jury. But they said they would go. And they had had some trouble in their home. Mr. Edlin had to call the police about a threat to kill him and so forth. So they said they would go. We arranged for them to go. Mr. Miller. I had him down there, and they said they would go.

Mr. Robinson's grand father died in Illinois the [5160] day before they were to go and he had to go to the funeral, so they did not go that time. Then we had to put in three or four visits to Mr. Miller. None of them wanted to go and did get them to go the third time and they testified before the grand jury in Miami, Florida, so I am told, by these gentlemen and also by the Department of Justice.

That took up about two weeks, Mr. Williams, getting that arranged.

* * * * * *

[5166] Q. Now, at any time during your conversations with the Attorney General, Mr. Kennedy, did you ask him to dismiss the case against Mr. Edlin? [5167] A. Absolutely no, and neither did Tom Johnson, or anyone else and Mr. Edlin never asked us to do that. He wanted it reviewed and that was all. I had been doing that for 28 years.

Q. At any time prior to this date had you asked Mr. Miller, the Assistant Attorney General, in charge of the Criminal Division, to dismiss this case? A. Of course not.

Q. At any time had you asked him to show any consideration to Mr. Edlin other than was called for by the merits of the case? A. Absolutely, we only asked him to see if it was a bad or faulty indictment.

Q. Did you at any time ask that the trial of the case be delayed? A. I did.

Q. When was that? A. The last time I was there, I told him I understood from Congressman Johnson that he had been told that they were going to go ahead with the prosecution. I asked him if it would hurt anything, any way, shape or form, if Mr. Edlin were given thirty days to finish up a deal he had on to sell this property that I held this mortgage on to some people that were going to develop it [5168] and if it is not out of line, if there was not anything in the world that would be hurt, Mr. Edlin would be right there, I would appreciate his giving Mr. Edlin thirty days.

* * * * * *

[5172] (In open court.)

By Mr. Williams:

Q. Was the case, in fact, to your knowledge, continued or was it not? A. I beg your pardon. I could not hear you.

Q. Was the Edlin case continued or was it not? A. It was not.

* * * * * *

[5216] By Mr. Tydings:

Q. At the time negotiations began, between Mr. Edlin and his group and Mr. Desser and his group in January of 1961, about the possible financing of the Desser interest, or the refinancing of the Desser interest in the Waldorf property, at the time those negotiations began Mr. Edlin also put out feelers about his [5217] interest in perhaps acquiring the property at Waldorf in the event the renegotiations for any financing for Mr. Desser fell through? A. He did not put out feelers. He talked to me day and night about it, and if he could not get to do the other, he wanted to buy it and said he would foreclose if I would and I was trying to get around to foreclosing. It cost me $360,000 to foreclose that property if I paid the regular thing and I also have to pay tops, it looks like. Yes, sir, I pay twice as much as anyone else including the young lady here making my record. I am glad to do it though, because they are doing a grand job.

By Mr. Tydings:

Q. So that during the period of the negotiations— A. A little closer, please, I just cannot hear you.

Q. During the period of these negotiations, you were also in effect negotiating with Mr. Edlin in the event that the Desser deal fell through, for Mr. Edlin to acquire the Charles County property, were you not? A. I was doing that and I had three other people I was working with to try to sell it because it looked like he was going to fall down on his payments to me which were four or five years old and paid interest one time in all that time but I was trying to help him.

[5218] You heard me tell Mr. Williams this morning if I agreed to accept the $100,000 when that man had a check to give me for $125,000.

Q. And at this time you knew that Mr. Edlin was the principal in the negotiations if it were necessary for him or his group to purchase the Charles County property did you not? A. I knew that Mr. Edlin told me he was the adviser and banker for a group in New York, Chicago and Miami that had money running out of their ears. And I wanted to spend it in Waldorf Maryland on this beautiful tract of land at Waldorf, 8,000 acres that I had been trying to develop so hard, which I am going to do. I am out of Congress now, you put me out so I am glad of it. Finest thing that ever happened.

(The Court) Were you defeated in the general election or the primary?

(The Witness) This thing here. I won the general election and then we had to run State at Large and every day the papers come out and said I stole ten million dollars from the savings and loans. I never heard of a savings and loan.

(The Court) What was the date of the election?

(The Witness) The date of the election, it was last year, Judge. All of it, you know. The runoff was [5219] last November.

(The Court) The runoff was last November?

(The Witness) Yes, sir.

Judge, I won in my District but they lost a Congressman in that District, and we all had to run at large.

By Mr. Tydings:

Q. Congressman, as long as you are in on this, is it not a fact that your runoff defeat occurred before the indictment was returned by this grand jury for the District of Maryland? A. Yes, I was indicted before I went over there to see you. However, the papers in screaming headlines were saying about the "Crooks," and I had stolen this land and stole the money and the savings and loans, women and children and you know, of course, that is paid up now in full. Now, do you know it, the savings and loan is paid up in full—you knew that?

Q. I heard the testimony here. A. You heard the testimony. I would find out about that. It is certainly important. Judge, I paid $685,000 on that and never got but $125,000 from Mr. Edlin just so no children would not lose no money on me.

Q. How much did you pay to pay off these savings [5220] and loan asociations? A. I let them take my land and gave them the whole $10 million worth of land. I did not want the savings and loan or anyone to lose any money on account of me because no one has ever lost a copper on me and they used $600,000—some odd of this cash money to pay from that savings and loan and we never got but $125,000 and that was not from the savings and loan, it was from a certified check on a bank and I never heard of a savings and loan when I met Mr. Edlin. He told me he represented all these banks in New York, Chicago and Miami, and so did Mr. Robinson.

Q. Now, Congressman, I want to call to your attention— A. I can not hear you.

Q. I want to call to your attention, the testimony—

(The Witness) Mr. Weiner, you were talking to me? I can't hear you.

(Mr. Weiner) No, sir, Mr. Tydings is.

(The Witness) Yes, sir.

(The Court) I think we had better take a five minute recess.

(The Witness) No, I do not need it. Please, sir, let's get through.

(The Court) We must take one more recess [5221] before we finish anyhow.

(Mr. Tydings) I need it Congressman.

(The Witness) I sure don't.

(Brief recess.)

(The jury is absent.)

(At the Bench.)

(Mr. Genn) I would like to move to strike the last series of responses. I think, actually, Your Honor, it was one continuous response by Congressman Boykin as first including prejudicial answers much of which goes far beyond anything pertinent to the indictment.

(The Court) What parts are you taking issue with?

(Mr. Genn) Reference to savings and loan associations as to what sums were used or not used for associations; the fact that the entire statement is largely prejudicial and not pertinent nor relevant nor related to the period of this indictment.

(The Court) Do you have any objection?

(Mr. Tydings) I would like to have an opportunity to study it.

(The Court) The Court has called on Mr. Tydings and Mr. Williams and, of course, representatives of [5222] other defendants to say whether they have any objection to Mr. Genn's motion being granted in whole or in part. When I have received, or when I have heard from them after they have had an opportunity to read it, I will make an appropriate ruling and instruct the jury.

(In open court.)

(The Court) Bring in the jury.

* * * * * *

[5225] Q. As a matter of fact, Congressman, is it not a fact that after you received the $250,000— the two checks, [5226] each one for $125,000, you could not possibly lose on this transaction no matter what happened? A. I did not intend to lose. I would get that money and if I did not get the balance, I would foreclose. I, of course, would not lose. I would get my property back and I sold it to him too cheap.

* * * * * *

(Vol. 39 [5282]) (Mr. Williams) May I make a suggestion on that, Your Honor? First of all, this went into the record yesterday. I told Your Honor I had no intention ever to allude to this in any way. All that is going to happen is you are going to magnify it out of context by striking it. I am not going to make any reference to this in my argument or at any other time of this trial and I am sure no one else will.

(The Court) If Mr. Edlin wants to strike it, I will strike it.

(Mr. Tydings) I would like to say one thing, I intend to get the record clear with Mr. Boykin the first question I ask him on the stand, is the fact that he lost his primary election in May, five months before the indictment.

(Mr. Williams) Then let us leave it in.

(Mr. Genn) I move to strike it.

(The Court) I think that is immaterial so far as Mr. Edlin is concerned.

(Mr. Genn) There are prejudicial statements in there as well.

(The Court) If you will point out the prejudicial statements, I will try to rule on them, if you will just tell me what is prejudicial. It is beyond me why Mr. Boykin losing the election is [5283] prejudicial to Mr. Edlin.

(Mr. Genn) I stated that there are additional statements.

(The Court) If you will show me the ones you mean.

(Mr. Genn) If you will hear me, Your Honor, I will be glad to do it.

Something in reference to thefts, stolen million dollars. Certainly the inference is in the context of this.

(The Court) I agree with you that it should not be admissible against you and I will strike these volunteered statements on page 5219.

(Mr. Genn) 5218 and 5219.

* * * * * *

[5284] (The Court) I will tell you the jury to disregard those statements dealing with what Mr. Boykin had to pay back in 1962 as a result of the building associations.

* * * * * *

[5286] (The Court) Members of the jury, good morning. I am sorry to be so late starting but we have been arguing busily on evidence here. The particular letter No. 203 for identification which was marked yesterday, Government Exhibit 203, which the Court has agreed that certain sentences out of this letter may be read to the jury. Also at the motion of Mr. Genn, I [5287] instruct you not to consider as part of the evidence in the case against Mr. Edlin any of the statements volunteered by the witness on the stand with respect to the money he had spent in 1962 and after, as a result of any contracts made by any building associations or developer.

That is in the case with respect to the other three defendants but is not to be considered for or against Mr. Edlin.

Now, Mr. Tydings, if you are going to do anything with 203, I have marked with specific check marks what is in.

(Mr. Tydings) I think I have them marked.

(The Court) All right.

* * * * * *

[5294] Q. I want to show you Government Exhibit No. 204 for identification and that is a letter from you, is it not, to Mr. Austill Pharr, president of the First National Bank [5295] of Mobile, Alabama dated December 18, 1961, and I want to call your attention and ask you whether or not--

(Mr. Genn) If the Court please, I object as far as this defendant is concerned, as to anything beyond December 8.

(The Court) The letter I have not seen it. Certainly no paper offered as an admission by Mr. Boykin, I do not see how it could be admissible against Edlin. Are you offering it against Edlin?

(Mr. Tydings) No, I am not offering it against Mr. Edlin.

* * * * * *

[5309] Q. Now, Congressman, you knew, did you not, that [5310] during the spring and the summer and the fall of 1961, during the time that these contacts and the visits were made with the Attorney General and the Assistant Attorney General, that Mr. Edlin was trying to swap off his criminal case here in Maryland in return for providing alleged information about Hoffa, Dranow or the stolen treasury note? A. I did not know it.

Mr. Edlin asked me to get his case reviewed.

(Mr. Genn) I object, if the Court please, as to mental impressions.

(The Court) I think the question assumes——strike the question and strike the answer.

(Mr. Tydings) No, if Your Honor please, I am prepared to follow this up right now.

(The Court) It is all right if you follow it up but you asked a question without showing any basis for it which assumed a fact not in evidence, and you cannot ask a question which assumes a fact not in evidence.

Now, if you will get the fact in evidence, or if you offer to follow up by proving it, you have a different problem.

(Mr. Tydings) All right.

(The Court) So, I strike the original question and answer and you may ask another question.

[5311] By Mr. Tydings:

Q. Congressman Boykin, when you appeared before the

Grand Jury, did you not testify— A. That is your Grand Jury?

Q. —at page 49, that is right, the Federal Grand Jury, in response to the following question:

> "Q. What did Mr. Edlin and Mr. Robinson hope would be accomplished by the Attorney General in the Department of Justice, taking the case under advisement and studying it."

(Mr. Genn) If the Court please, I am going to object to this. This has nothing to do with the specific testimony. This is impeaching as to some other fact and trying to bring in an assumed fact by referring to other evidence not pertinent to this indictment. I think it is not admissible.

(The Court) Objection overruled. Go ahead.

By Mr. Tydings:

Q. Let me read for you again, Congressman, before we were interrupted. Page 49, the Federal Grand Jury testimony:

> "Q. What did Mr. Edlin and Mr. Robinson hope would be accomplished by the Attorney General and the Department of Justice taking the case under advisement and studying it? [5312] A. They were trying to swap off on Hoffa for that deal. I don't know, but neither one of them ever talked to Bobby, to Bobby Kennedy."

(Mr. Williams) Read to line 22.

(The Court) Just take time. Mr. Williams, are you asking, Mr. Tydings, whether that is true? If you are reading it as an admission by Mr. Boykin without asking him whether it is true, it is not admissible against Mr. Edlin.

Are you asking him whether it is true or not?

(Mr. Tydings) Let me continue, Your Honor.

By Mr. Tydings:

Q. (Reading.)

"Isn't that true that what Mr. Edlin and Mr. Robinson hoped would be accomplished by the Attorney General?"

(Mr. Williams) I think he should read the whole colloquy down to line 22.

(Mr. Tydings) I will read everything that Mr. Williams asks me.

(Mr. Williams) Don't say it, do it.

(The Court) He can cross examine and if he does not read it all, you can do it but he can ask him question by question. He does not have to read the whole thing.

[5313] He can ask him whether what he said is true, and then he will ask the rest, or if you want to read the rest, you can do it, either now or later. Go ahead, Mr. Tydings.

By Mr. Tydings:

Q. Just a moment, Congressman.

Now, is it not a fact that that is what Mr. Edlin and Mr. Robinson hoped would be accomplished by these visits to the Department of Justice? A. No, they hoped that if they found the indictment was not good—Edlin told me that all he wanted was a review. I told you this before and that is all he wanted and that is all Congressman Johnson and I ever asked the Attorney General. They were asking us to do things, ten times more than we were doing for them.

More of these trips were to help them and get these men to go before the Attorney General. They must have had confidence in them. They wanted them to go to the Federal Court and swear against them on this deal, which they did do. They went three times.

Q. You deny then— A. Yes.

(Mr. Tydings) Mr. Williams, I will be happy [5314] now to read the balance of the page or any part.

(Mr. Williams) Just to line 22, Mr. Tydings, if you will.

(Mr. Tydings) All right. (Reading)

"Q. But they talked to you and to Congressman Johnson? A. Yes, they talked to me.

"Q. What did you think they hoped to accomplish? A. They were talking 'way off beyond, and how they were angels.

"Q. What were their highest hopes? A. He said he didn't mind being tried and he would come clear.

"Q. Were these visits to the Attorney General materially your idea and not Congressman Johnson's? A. It could have been either one. It was about as much mine as it was Tom's."

(The Court) Now, let me get the evidence point straight. What Mr. Boykin said to the Grand Jury as Mr. Tydings read it to him, is not admissible against Mr. Edlin. Do you wish to strike the witness' answer also?

[5315] (Mr. Genn) I thought it was offered with respect only to credibility and I do not think it is admissible.

(The Court) Then, you can also disregard his answer with respect to Edlin.

Now, I did not understand that Mr. Boykin questioned that he had said that to the grand jury with his explanation of his condition. Is that correct? He did not deny that he said to the grand jury what Mr. Tydings read?

(Mr. Tydings) Well, sir—

(Mr. Williams) He said, Your Honor, that is what he said to the grand jury.

(The Court) So, it is admissible in the Boykin case and, since the other two defendants have not objected, it may be considered in their case, also.

* * * * * *

[Tr. 5319-5324]

By Mr. Doub:

Q. Mr. Boykin, when you met Mr. Edlin in January of 1961, you were tremendously impressed with him, were you not? A. Yes, I was. He is a genius. He is one of the greatest financiers I ever saw and the best traders. I was impressed with him. If he had been let alone, I think he would have made a big success of it.

Q. Do you remember in February or about February, going to Mr. Johnson's office and he had a big stack of mortgages on the desk in front of him, and he was working on them? A. I just told Mr. Tydings about it.

Q. Is that the occasion you are talking about? A. It was the Cassell Development.

Q. That was the Cassell Development, was it not? A. Six hundred and some abstracts—half of them were wrong.

Q. Do you remember in early May, 1961, a meeting with Mr. Edlin, Mr. Robinson, Mr. Johnson, in which Mr. Johnson discussed with him the fee that he would be paid for the foreclosure case? A. Yes, sir, $25,000.

Q. Is that what they agreed on at that meeting? A. Mr. Johnson wanted more. I think it was $40,000, and he said he would not give but $25,000 for foreclosing.

He said if he would do some other work, he would agree to that. That was the agreement, $25,000.

Q. Was anything said about $10,000 of the $25,000 being paid promptly? A. I do not remember.

Q. You do not remember? A. No, sir.

Q. Now, in three of the letters in evidence which you wrote shortly thereafter to the people like Holland, Pharr, you said that the foreclosure case was costing $25,000? A. Yes, sir.

Q. Is that the $25,000 that you were referring to? A. Yes, sir.

Q. That was agreed upon? A. Yes, sir, I was trying to tell my auditor, Mr. Doub—I was very much worried about what it was going to cost to foreclose it. Some of the people I was talking to wanted 6 per cent which would be $360,000. That is the reason I gave such good terms and so long to them.

Q. Louder. A. To keep from paying that on the foreclosure. And I was just trying to get my money for my land that I brought up money from Alabama and bought and paid for. We owed nothing on it.

Q. Now, you testified on direct, Mr. Boykin, that from January, 1961 to February, and March and April, there were a lot of meetings, to use your words, a lot of meetings with respect to the proposed loan from—a loan to Desser & Garfield in the amount of $2,300,000? A. That is right.

Q. Now, were some of those meetings held in Mr. Lykes Boykins' office? A. Yes, sir, and some of them I did not attend.

Q. Some of them were in Mr. Desser's office? Do you know? A. I do not think so, no. I do not remember.

Q. Were any of them in your office? A. No.

Q. Were any of them in Mr. Johnson's office? A. Yes.

Q. They were? A. Yes, sir.

Q. Do you recall whether Mr. Johnson attended any of the meetings in Lykes Boykin's office? A. Yes. sir.

He did not attend all of them, and neither did I. That is exactly the way I remember it.

Q. Do you recall making a trip with Mr. Johnson to meet with Mr. Ashby in Fredericksburg? A. No, sir, I did not go down there.

Q. You did not go down there? A. No, I did not go. I told Mr. Tydings yesterday I did not go.

That was a mistake in the letter. I made arrangements. I knew Mr. Ashby well, and my lawyer, Mr. Moncure.

Q. You did not go down with Mr. Johnson, then? A. No, sir.

Q. You did not? A. No, I did not go with anyone.

Q. Did you go with Mr. Johnson on a trip to see Mr. Moncure in Stafford, Virginia? A. No, I did not. I called up my lawyer, Judge Mudd, and told him I would appreciate—he had been my lawyer ever since I had been up here—if he would help Congressman Johnson out, and suggested that he take the foreclosing of it.

Q. Were you at a breakfast meeting on July 10, the date of this proposed public sale and foreclosure of the foreclosure of the $6 million mortgage with Lykes Boykin and Mr. Johnson? A. No, sir.

Q. You were not there? A. I was not there.

Q. Did you attend the meetings that continued thereafter in Mr. Lykes Boykin's office that day? A. I attended a lot of meetings. I am sure I did. I do not remember. I just do not remember.

(Mr. Tydings) Your Honor, I am going to ask for a five-minute recess at this time.

(The Witness) Fine, thank you, sir. I will just sit right here, Judge.

(A brief recess was taken.)

By Mr. Doub:

Q. Now, Mr. Boykin, I am just going to ask you two questions. A. Yes, sir.

Q. Wasn't Mr. Johnson offered a large commission on the resale of these properties, and he refused to take it?

A. Yes, he was offered 10 per cent, and he refused it. I was offered fifteen per cent and I refused it. Lykes Boykin was offered ten per cent and he refused all of it. Every one of us.

Q. As a matter of fact, didn't you feel, Mr. Boykin, that Mr. Johnson's compensation as agreed upon was too little for him? A. Yes, sir.

Q. And you even wished to pay him a commission, yourself? A. I offered him one.

Q. And he refused it? A. He refused it. Said he could not represent both sides.

* * * * * *

(Vol. 42 [5803]) Mr. Genn) Now, finally, Your Honor, so that I can conclude all of my motions, I would like to, for the record, renew the motion that I have made previously a number of times for a mistrial or severance in the case and I might add that on the grounds I have already stated and since the previous motion last I might state that I think there have been a number of other factors, too. There has been brought into evidence, for example, through Mr. Lykes Boykin and other individuals in connection with the Finneran transaction suggestions of further improprieties. I think there has been, I regret to say—some interjections by the Court. I think that counsel for the Government improperly suggested that evidence had to be conceded or to some extent stipulated to. I do not think that that is appropriate in the [5804] case and I think that for the reasons I have stated with constant repetition of matters which go essentially to character and for all of the reasons I have stated previously, I would like to renew the motion for a mistrial.

I might point out that most of the time that the Department of Justice at least 7 or 8 times or more, the same matters were gone over in spite of the fact that Your Honor said at the outset of this case that the spirit of Michelson must prevail, there should not be very much mention of this.

Let us get on to it and not mention it too often. When Mr. Meyer got on the stand, not only was the conviction mentioned, but the Corona matter was mentioned. It was repeated two or three times on direct and on cross. It was brought out on the Defendant's case.

(Mr. Tydings) Your Honor, we have hashed this over. It is getting late.

(The Court) Let him finish.

(Mr. Genn) I state for the record the same types of matters were re-hashed again in the defendant's case and for that reason I renew the motion.

(The Court) Denied.

* * * * * *

(Vol. 43 [5916]) Members of the Jury, the defendant Edlin has presented no defense in this case. He has presented no evidence to contradict the charges against him. He has produced no evidence to deny numerous statements made by many, many government witnesses. He has produced no evidence to deny the testimony of numerous witnesses of his various activities which clearly indicate beyond any doubt, members of the Jury, his guilt of the charges in this indictment.

* * * * * *

[5918-5919] (Mr. Genn) Your Honor, I would like to object to that portion of the argument which I think goes well beyond the scope of the indictment in this case. I do not think that the Government's argument is within the scope of the charges in this indictment of an attempt to defraud. I would also like to object to the statement made with regard to the Defendant Edlin as bringing no defense and no evidence as constituting a comment upon his failure to take the stand.

(The Court) He did not say that.

(Mr. Genn) He said he presented no defense and he presented no evidence, and I say that constitutes a comment

upon his failure to take the stand. I will also state that the argument in certain portions of it was excessively inflammatory and I object.

(The Court) Overruled.

* * * * * *

[Tr. 1669-1690]

ROBERT FRANCIS KENNEDY

a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Tydings:

Q. State your name for the record. A. Robert Francis Kennedy.

Q. Where do you reside, Mr. Kennedy? A. I live in McLean, Virginia. I come from Boston, Massachusetts.

Q. And are you the Attorney General of the United States? A. I am.

Q. And, as Attorney General of the United States, would you briefly outline your responsibilities and duties in that office? A. Well, I am responsible for the Department of Justice. The Department of Justice has approximately 35,000 employees.

We have under my direction the Immigration and Naturalization Service, Bureau of Prisons, Federal Bureau of Investigation, as well as all the legal work of the Federal Government. In that category we have the Lands Division, the Civil Division, Criminal Division, Internal Security Division and the Tax Division. We have 92 U.S. Attorneys' offices across the United States for which I have the responsibility.

Q. Prior to the time you were nominated and confirmed as Attorney General of the United States, had you ever met Congressman Frank W. Boykin? A. I believe I had.

Q. What sort of acquaintanceship, if any, had you had with Congressman Boykin? A. I had a brief social acquaintance. I knew Congressman Boykin and he had been a friend of my father's for some period of time.

Q. Now, I direct your attention to the spring of 1961 and ask you whether or not you recall a time when Congressman Boykin called you or your office and requested an appointment for himself and Congressman Johnson to meet with you? A. I do and I have had my recollection refreshed from looking at certain records of the Department of Justice but, after looking at those records, I remember that such a call was made.

Q. Did Congressman Johnson and Congressman Boykin come to your office in their official capacity as Congressmen of the United States? A. Well, they came, in my judgment, they were there as Congressman in the United States Congress.

Q. Now, to the best of your recollection, what occurred or what was the subject of that initial conference or meeting between yourself and Congressman Johnson and Congressman Boykin? A. The first meeting which I remember was a Saturday morning. I had had another meeting in my office and we stepped out of my office and went into another room and they had some maps and charts with them which showed a land development in Maryland. They were concerned about the fact that Mr. Edlin was then under indictment, that he was with a First Colony Savings Company, that he was under indictment and they felt that the indictment should not have been brought and that this matter should be reviewed by me, that if the indictment was followed through, that this would have a bad effect on the economy of Maryland.

Q. And how long did the meeting last, approximately? A. I could not tell you. My recollection is it was just for a short period of time.

Q. At the conclusion of the meeting, did you suggest or request a memorandum on the subject which they had dis-

cussed with you? A. That is my usual procedure and I believe that I did.

In any case, a memorandum was sent to me.

Q. What did you do with the memorandum or what was done with the memorandum? A. I forwarded it to Mr. Miller who was head of the Criminal Division.

Q. All right. That is Mr. Herbert J. Miller, who is the Assistant Attorney General of the United States and Chief of the Criminal Division? A. That is correct.

Q. Now, did Congressman Johnson indicate to you at this time, or at any subsequent meeting he had with you, that he had been retained or was being retained by Mr. Edlin or any of Mr. Edlin's interests? A. He did not.

Q. Did Congressman Boykin state to you at this time or at any subsequent time that he had a personal financial stake in either of the tracts of land being financed by Mr. Edlin or his savings and loan associations? A. Not to my recollection.

Q. All right; now, did either Congressman Johnson or Congressman Boykin visit you again, personally, at the Department of Justice in the spring of 1961? A. Yes, they did.

Q. And approximately what was the purpose of that visit, if you recall?

(Mr. Doub) What is the date of that, Mr. Tydings?

(Mr. Tydings) I show you government exhibit 108 for identification which was offered by Miss Jane Lahey, and to refresh your recollection, and ask you what was the date of that second meeting, Mr. Kennedy? A. The record shows that it was April 12, 1961 at 11:30 a.m.

Q. From the Government exhibit 108 what was the date of the first meeting? A. March 25, 1961 at 10:15.

Q. What was the date of the first telephone call? A. Wednesday, March 22, 1961. Should I read the notation?

Q. You can read the notation. A. "Congressman Boykin of Alabama called. He and Congressman Tom Johnson of Maryland would like to come in and see you tomorrow, if possible, before the House adjourns on Tuesday. I am to call them in the morning. It is a personal matter."

Q. Now, to the best of your recollection, what took place at the April 12th meeting? A. Again, we went through the fact that Mr. Edlin was under indictment, that the adverse effect that this would have in Maryland, that this savings and loan company could have a very beneficial effect; if Mr. Edlin followed through on this indictment that it could have an adverse effect financially in Maryland.

I believe at this meeting, one of these meetings during this period of time or during several of these meetings, it was brought out that there was going to be a development for Negroes; that this would be helpful in the problem of segregation; that Mr. Edlin was wanting to develop this Negro Housing Development here, and that this could be helpful. I think that is generally, along those lines.

Q. Did you request Mr. Herbert Miller at any time to meet the two Congressmen? A. Yes, I believe that he came to this meeting on April 12. I do not know if he was there at the beginning but I believe he was there during the course of the meeting. I believe that it was Congressman Johnson, Congressman Boykin and Mr. Miller and myself.

Q. All right. Now, during this period did Congressman Boykin ever suggest to you that Mr. Edlin could be of assistance to the Department of Justice in a pending investigation? A. Yes, he did.

Q. And what was Mr. Boykin's statement to you on that? A. I believe he had talked to me earlier. Perhaps at some social function, and I can not recollect that exactly but at some time he told me that Mr. Edlin had information regarding a $100,000 stolen bond and its connection with Mr. James Hoffa who was the International President of the Teamsters and I believe Mr. Dranow who was also under investigation in connection with it. That Mr. Edlin had some very

valuable and helpful information; that we should contact Mr. Edlin.

Q. And did you give any instructions to any one? A. I forwarded that information to Mr. Miller and to also, I believe, Mr. Walter Sheridan, who was working on the matter.

Q. Now, directing your attention to the early fall of 1961, were you visited again by either Congressman Johnson or Congressman Boykin at that time? A. I had told the Congressman that this matter was being handled by Mr. Miller and that the contacts should be with Mr. Miller and thereafter, after the meeting on April 12, 1961, there were numerous contacts and conferences with Mr. Miller in connection with this matter. And then I heard—should I speak from this?

Q. Did Mr. Miller reach any decisions in the late summer of 1961 regarding the merits? A. He had just become head of the criminal division and therefore had to examine a great number of matters, and it is my understanding or my recollection now that by examining this subject by the end of the summer, he had reached the conclusion that the indictment was well brought and that the case should go forward against Mr. Edlin.

Q. The indictment had been brought under your predecessor Attorney General, is that correct? A. That is correct.

Q. Now, directing your attention to the late summer or early fall, did either Congressman Boykin or Congressman Johnson have occasion to visit you again in your offices at the Department of Justice? A. Yes, they did.

Q. And what was the purpose of those visits?

(Mr. Doub) What was that date?

By Mr. Tydings:

Q. Would you read the dates? A. Should I read what preceded it, also, how the appointment was made?

Q. Yes, read those two, please, the telephone calls as well as the date? A. "Tuesday, August 29 Congressman Boykin called last night and today. Would like to come in and see you some time." Then "Congressman Boykin called again; wants to see you early tomorrow morning or some time Thursday." That was August 29. And then an appointment was made for August 31, 1961 at 12 o'clock noon.

Q. For Congressman Boykin? A. It says Congressman Boykin. I do not know whether both came in or just Congressman Boykin.

Q. When was the next contact made? A. Now, they came in on August 31 at 12 o'clock, Congressman Boykin, the notation says.

Q. Will you tell the jury whether or not any subsequent contacts were made by telephone and when they were, using the exhibit which you have in your hand? A. Well, there were some contacts between the time I met Congressmen Boykin and Johnson on April 12.

There was one on July 20 of 1961. "Congressman Boykin called the Attorney General. Congressman Boykin called and the Attorney General took the call."

Then the next notation is August 29, 1961 which I just read and then there was an appointment made two days later on August 31, 1961.

Then on Tuesday, September 5, 1961, there is a notation saying "Congressman Tom Johnson's office called to confirm an appointment he made with you for this Thursday. I don't have it in my book. Is it O.K. to go ahead and set one up? Mrs. Kiernan—Extension 5465."

Then there is an appointment that was made for Congressman Johnson on September 7, 1961 at 12 o'clock noon. Do you want me to continue?

Q. Go ahead and finish the rest of the telephone messages and appointments. A. Then there is a notation. "REMINDER: Talk to Jack Miller re. Cong. Tom Johnson of Maryland."

Then on September 7, as I believe I mentioned, on September 7, 1961 Congressman Johnson came to see me.

Then on September 8 the "Attorney General placed a call to Congressman Boykin. This took place at 10 o'clock in the morning. He was not in and the call was returned by Boykin at 10:05 a.m." Do you want me to continue.

Q. Yes, please. A. Monday, October 16, 1961 "Congressman Boykin called this morning and would like to come over with Congressman Johnson to see you today. He said to tell you it had something to do with Hoffa." And it gives the extension.

Then on October 17 Congressman Boykin, notation that Congressman Boykin came by October 17, 1961 at 3:15 p.m.

Then on October 18, 1961 there is a notation "Congressman Frank Boykin would like you to call him. He saw Jack Miller about the matter you discussed yesterday and wants to talk to you about this further."

That is the last notation.

Q. All right, now, to the best of your recollection what was the subject of the appointments and calls which you have just related to the jury in the summer of 1961 and the fall of 1961 when you were contacted by Congressman Johnson and/or Congressman Boykin? A. By the end of the summer of 1961 Mr. Miller had finished his review and had decided that there was a strong case—

(Mr. Genn) If the Court please, I am going to object to any testimony and move to strike this witness' testimony in reference to conclusions drawn by some other person.

(Mr. Tydings) And what did—

(Mr. Genn) That is not subject to cross examination.

(Mr. Tydings) If Your Honor please, we will follow this up, as Mr. Genn knows, with Mr. Miller.

(The Court) I will reserve my ruling. The hearsay statements from Mr. Miller would not be admissible unless they

were communicated to the Congressman or to some other of the defendants.

Do you propose to follow that up by showing that Mr. Miller's decision was communicated to the Congressman by this witness or by Mr. Miller?

(Mr. Tydings) By Mr. Miller, and the next question would be, what was the subject of the visit between the Congressman and the Attorney General in the fall of 1961?

(The Court) I will defer my ruling until we have the result of that, but remind me to make the ruling unless it is cleared up.

By Mr. Tydings:

Q. Do you recall what was the subject of the conversations and visits between yourself and Congressman Johnson and Congressman Boykin in the summer and fall of 1961? You may continue to answer the question that I have asked you previously. A. Mr. Miller had been reviewing this matter as to whether the Edlin indictment in the matter involving First Colony should be followed through. He had reached the conclusion that it was a strong case, and that it should be. He had had a meeting with Congressman Johnson, I believe, and had communicated this to Congressman Johnson.

Thereafter Congressman Boykin contacted me about that decision, and then we had these meetings on August 31, 1961, in which concern was expressed about the fact that we were going to go through with this matter, as far as Mr. Edlin was concerned.

(Mr. Genn) If the Court please, I am going to object to this response to the question as purely hearsay testimony with respect to the defendant, and I assume that the Court will—

(Mr. Tydings) This is a conversation between Mr. Boykin and the Attorney General.

(Mr. Genn) In respect to this particular defendant, I

suggest this is hearsay and not admissible at this time, nor connected up.

(Mr. Tydings) It is clearly in furtherance of the conspiracy.

(The Court) The last answer the Attorney General stated that concern was expressed or something like that. I think we better know who expressed concern and so forth.

(Mr. Tydings) Who expressed concern?

(The Court) I will reserve ruling again.

(The Witness) My best recollection is that at this period of time after the decision had been made and communicated to Congressman Johnson, Congressman Boykin contacted me about the decision. He came to see me. He said how effective he was and how much he admired Mr. Miller, but that he felt that this decision had not been a correct decision, and that he would hope that I would review it, and he expressed concern about the fact that we were moving ahead with the Edlin indictment.

I said I would see what I could find out about it. I had been working on a number of other matters during this period of time.

After this meeting on August 31st I asked Mr. Miller to prepare a memorandum summarizing the Edlin matter. I said to Congressman Boykin that I would be glad to see him again after I reviewed the matter personally with Mr. Miller again.

Mr. Miller prepared a memorandum within the next few days and I read that memorandum and then I believe I received a telephone call. The record shows I received a telephone call from Congressman Johnson to make an appointment and on September 7th, which was just a week after seeing Congressman Boykin, Congressman Johnson came to see me about this same matter. I said that I have reviewed the case and that in our judgment the case was a strong case.

He still expressed concern about it and felt that this whole

investigation and our pursuit of Mr. Edlin was motivated by prejudice, and that we should not proceed.

Q. And did you have a final meeting with Congressman Boykin? A. I might say, that I said that this was being handled by Mr. Miller in the Criminal Division, and that their conversations and conferences should really be held with Mr. Miller regarding this matter.

Q. All right. Now, during the year 1961, specifically, from March of 1961—

(The Court) I think I might make my ruling on Mr. Genn's objection. I will strike out the statement by the Attorney General, by this witness that Miller had told him that he thought it was a strong case, and only as against Edlin because he is the only one who had made that motion, and the evidence that they had decided to proceed with the indictment was clearly communicated and was the basis for these other acts to which the witness has testified.

(Mr. Genn) If the Court please, I think the jury should be cautioned with respect to that testimony as well. They have heard the testimony and simply striking out—

(The Court) I will tell the jury not to consider as part of the case against Edlin the opinion of Mr. Miller whether or not it was a strong case. Now, all of the rest of the testimony as far as I can see, is properly admissible.

By Mr. Tydings:

Q. All right. Now, Mr. Kennedy, during the period from March of 1961 through November of 1961, did either Congressman Johnson or Congressman Boykin contact you on any matter which was not concerned with the testimony which you have just given to the jury? A. No. I might say that I think that while they were visiting, we might very well have discussed other matters. The purpose of their visiting me was in connection with Mr. Edlin.

Q. All right. Now, Mr. Kennedy, directing your attention to November 6, 1961, did you receive a letter from Congress-

man Boykin in connection with the Edlin indictment on that date?

I ask that this be marked for identification.

(The Clerk) Government's Exhibit No. 122 marked for identification.

(Government's Exhibit 122 was marked for identification.)

(The Witness) That is correct.

By Mr. Tydings:

Q. And was a photostatic copy of the original letter made in the Department of Justice at the time it was received by your office? A. That is correct.

Q. And do you have the original letter of November 6, 1961? A. I do not have it, and we cannot find it in the Department of Justice.

Q. Have your secretary and office staff made a diligent search in an effort to find the original? A. They have.

Q. I show you Government's Exhibit 122 for identification and ask you whether or not that is a photostatic copy of the original letter? A. Yes, it is.

(Mr. Doub) May I see that a moment, Joe?

(Mr. Tydings) I am not offering it at this time. I am just identifying it.

(Mr. Tydings) If Your Honor please, at this time I will offer into evidence and ask that it be shown to the jury Government's Exhibit 108 heretofore marked for identification.

(The Court) Does anybody have any objections to it?

(Mr. Genn) As I understand, Your Honor, that is a summary which was prepared, am I correct? The secretaries prepared that summary.

(Mr. Tydings) That is correct. Miss Lahey testified last week as to the method.

(The Court) We have her testimony. Before admitting it, I want to know whether the defendants have any objection.

(Mr. Genn) I don't think there is a proper foundation, Your Honor, to show this is all or this is—

(The Court) You will have to review the testimony of Miss Lahey. I remember she said they were copies from those books which were here. The books, I believe, are still here.

(The Clerk) Mr. Tydings has them.

(Mr. Marion) The objection at that time was relevancy on the ground it was not shown for the purpose for these contacts and visits.

(Mr. Tydings) If Your Honor wishes to withhold your ruling, we will defer giving it to the jury until later.

(The Court) Counsel have asked about other visits which might be in the various books. The witness has used this to refresh his recollection without objection.

(Mr. Genn) For that purpose we have no objection, for the purpose of refreshing the recollection, but for the purpose of the proof of the document itself as to the specific calls, I think we do, or at least this defendant still objects.

(Mr. Williams) Your Honor, I didn't understand the witness to say that his recollection was refreshed with respect to the precise time reflected on these notes. I think it is a fair characterization of his testimony that he adopted the dates shown to him. I have no objection to this going in for that basis as far as the Defendant Boykin is concerned.

(The Court) The books have been here for comparison to show those were from the books.

(Mr. Williams) We are not permitted to look at those books.

(The Court) The only question open was whether there were any possible entries which would be relevant and material, as I recall.

(Mr. Genn) That I think it correct.

(The Court) Do you object to it going in?

(Mr. Genn) Not for that purpose. I thought that there was some question in connection with the books themselves.

(The Court) Is it offered for any other purpose, Mr. Tydings?

(Mr. Tydings) No, Your Honor.

(The Court) Then let it be admitted for the limited purpose stated.

(Mr. Williams) Would Your Honor state the limited purpose, please?

(The Court) The purpose that you stated and Mr. Genn adopted.

(Mr. Tydings) The purpose would be that the records of the Department of Justice show the visits and the calls made on the days indicated.

(Mr. Williams) That it was a document the Attorney General had before him when he testified.

(The Court) And that the books which were here show these entries without any indication that they do not show other entries.

(Mr. Tydings) And they were prepared by Miss Lahey.

(Mr. Williams) I do not know what the books show because we are not permitted to look at them.

(The Court) You were permitted to look at every entry on there. It is simply that the books show those entries without any question as to whether the books show other entries and I will rule on other entries as they come up on cross examination.

(Mr. Williams) That is my understanding.

(The Court) Is that the understanding of all the defendants?

(Mr. Genn) That is correct.

(The Court) They are admitted in evidence for the purpose stated.

(The Clerk) Government Exhibit 108 marked in evidence.

(Government exhibit 108 marked in evidence.)

By Mr. Tydings:

Q. Directing your attention to on or about October 17, Mr. Kennedy, does Government exhibit 108 indicate an appointment with you by Congressman Boykin? A. Yes.

Q. And do you recall—what is your best recollection for the purpose and subject of that conference or visit? A. Congressman Boykin was anxious that we contact Mr. Edlin for further information regarding this $100,000 bond. He thought that Mr. Edlin could be extremely helpful to the government and that we had not realized how helpful Mr. Edlin could be to the government and he was extremely anxious that we understand the fact that Mr. Edlin was available and willing to testify and to help the government in this matter and that this is my recollection of the purpose of that visit.

(Mr. Doub) What was the date of that, Mr. Kennedy?

(The Witness) October 17, 1961.

(Mr. Tydings) No further questions, Your Honor.

* * * * * *

[Tr. 1694-1762]

CROSS-EXAMINATION

By Mr. Doub:

Q. Mr. Kennedy, directing your attention to the first meeting you had with Mr. Boykin and Mr. Johnson at

which you testified you requested that they provide you with a memorandum of the Edlin Mail Fraud Case, it is undisputed that Mr. Johnson thereafter mailed you such, or sent you such a memorandum. You did not read that memorandum? A. I believe I did not.

Q. You have testified as to the substance of what said at that meeting and later meetings. Did you dictate a memorandum of what was said at each of those meetings? A. No, I did not.

Q. And as a matter of fact, you would have on an average as an Attorney General of the United States, many meetings and conferences a day, would you not? A. That is correct.

Q. So you did not intend to suggest that you were quoting exactly the language of either Mr. Boykin or Mr. Johnson in those meetings? A. That is correct. I think I made that quite clear.

Q. Now, when you referred to the fact that Mr. Johnson said that this development was being affected by the pending case against Mr. Edlin, that is, this development in Southern Maryland? A. Yes, sir.

Q. You do recall that? A. Yes.

Q. Then I think you said this case was prejudicing the interests of Maryland. Is it possible that he could have said it was prejudicing the interests of Southern Maryland? A. Very possible. It was people in Maryland or the area of Maryland, something like that.

Q. Yes. If any other written material was supplied to the Department of Justice by either Mr. Johnson or Mr. Boykin, you did not read that, did you, relating, of course, to this Edlin Mail Fraud Case? A. Well, I would have to look at the particular document to try to determine whether I read it or not. Some things I read and other things I did not. I believe the memorandum to which you referred, the original one was 90 pages long, or something like that. I am quite certain I did not read that.

Q. Are there not pending at all times in the Criminal Division in the United States Attorney's office—as criminal cases are subject to the supervision of the Criminal Division—are there not pending at all times about sixty thousand criminal cases or is it more or less? A. I think that is a high figure.

Q. That is a high figure; about 50,000? A. Well, there are many thousands. I would have thought that was a high figure, also, but there are a great number of criminal cases pending in the Department of Justice.

Q. You had never heard of this Edlin mail fraud case before it was brought to your attention by Mr. Johnson and Mr. Boykin? A. No, I had not. I might have read something about it in the newspaper but the name did not really mean anything to me.

Q. Did you follow that case closely enough to know that as a matter of fact, Mr. Edlin pleaded nolo contendere? A. Well, I knew of it at the time. It was reported to me at the time. I receive daily reports on cases and that was one of them.

Q. Is it not the policy of the Department of Justice that no plea of nolo contendere can be agreed to by the United States Attorney without the approval of the Criminal Division? A. That is correct.

Q. So the criminal division approved that plea in this case? A. I do not know what the—I know that the plea was—

Q. At least if it was handled in the ordinary course.

(The Court) The Judge may approve a plea without the consent of the Government. The Government does not have to consent.

(Mr. Doub) That is right, Your Honor.

(Mr. Tydings) Your Honor, I think we should point out to the jury that in any nolo contendery plea, regardless of the what the Department of Justice or the Attorney,

the decision is made in open court by the Judge and the Judge alone, and is made on the open record and can only be made by the Judge so the Department of Justice position is only recommending for or against.

(Mr. Williams) If Mr. Tydings is going to testify here, I would like for him to get on the stand and have an opportunity to cross examine.

(Mr. Doub) The point I was making, Your Honor, was that the United States Attorney may not consent to it without the approval of the Criminal Division under the Department's rules.

Now, Your Honor, of course, can overrule that.

By Mr. Doub:

Q. Mr. Kennedy, did you ever personally review this Edlin mail fraud case? A. Not all the documents. As I said, there was a memorandum that was furnished to me about the Edlin case between the meeting of August 31, 1961 and the meeting of September 7, 1961 because of the fact that there had been all this great interest in this matter.

Q. You never read the file on the case? A. I did not.

Q. Did you know that Mr. Johnson and Mr. Boykin did help the Department in persuading Mr. Edlin to go to Florida to testify in the Sun Valley case before the Federal Grand Jury which was investigating that Teamsters Union development? A. Well, I know of Congressman Boykin's interest in helping, having Mr. Edlin testify. He discussed it, as I have said here. He discussed it with me on a number of occasions.

Q. Did you know that either Mr. Boykin or Mr. Johnson attempted to persuade Mr. Edlin to give full statements to the FBI with respect to any connection he might have had with the Sun Valley Development or the Dranow note? A. I know that Congressman Boykin indicated that to me on a number of occasions, that he was attempting to have

Mr. Edlin give us all the information that he had. He would be helpful in that matter.

Q. Did you know that Mr. Edlin actually made two trips to Florida in connection with the grand jury investigation? A. I know that he appeared before the grand jury.

(The Court) On the matter that was just mentioned by Mr. Tydings. Rule 11 of the Federal Rules of Criminal Procedure provides a defendant may plead not guilty, guilty or, with the consent of the court, nolo contendere. It is the uniform practice of this court when a plea of nolo contendere is offered by a defendant, to ask the United States Attorney whether the United States Attorney recommends or does not recommend the acceptance of the plea. The decision is the decision of the Court. It is not a matter of overruling an objection by the United States Attorney one way or the other. The Court asks the advice of the United States Attorney as to their recommendations. The Court does not always accept them. The Court sometimes accepts them.

By Mr. Doub:

Q. Mr. Kennedy, I believe the jury might be interested in having you tell them of the inscription on the wall just outside your inner office. Do you remember that?

(Mr. Tydings) What is the relevancy of this?

(Mr. Doub) "The Government wins its case whenever Justice is done." That is all.

(The Court) I take it that is a question. Do you wish to reply to that?

(The Witness) I agree. I think it belongs there, and I am happy that you brought it out.

(The Court) Members of the jury, and speaking also to the witness, the Defendant Johnson has requested permission also to cross examine the witness. It is unusual for more than one counsel to cross examine a witness and it is unusual though not unheard of for a defendant to

cross examine a witness when he is represented by counsel. At the last conference at the Bench that was the request that was made by Mr. Johnson to do so. That was presented to the Court. The Court has agreed that Mr. Johnson may cross examine the witness.

Mr. Johnson understands that he will not ask any questions of whether something happened unless he is prepared to follow up with evidence of himself or some one else that what he implies did happen and as I told you with respect to some of the documents, a matter of fact included in a question is not to be considered as fact contradicting a witness until evidence of that fact is established unless the witness agrees to it, of course.

Mr. Johnson, subject to what I have just said and to what was said up at the Bench, you may proceed.

CROSS EXAMINATION

By Mr. Johnson:

Q. General, when did you assume office as the Attorney General of the United States? A. January 21, 1961.

Q. When you assumed office, did you adopt any policy as to visitations on the part of Senators or Congressmen? A. No, not any particular policy.

Q. So then there was no policy prevailing with your department forbidding any Congressman or Senator discussing matters with your department? A. No, there was not.

Q. Is it not true, sir, that you do have many visits from Congressmen and Senators? A. I do.

Q. So the visits that Congressman Boykin and Johnson, or defendant Johnson made was not unusual to your department as far as visits were concerned? A. What do you mean by that?

Q. "That it was in keeping, was it not, General, with the policy of permitting Congressmen and Senators to visit and discuss with you matters pending in your department?

A. That is true, Congressman. I do not think that, since I have been Attorney General, I have had the number of visits and the amount of effort that was displayed in this case.

Q. Would it be correct in saying that after the institution of this suit you have had a lot fewer visits on the part of Congressmen and Senators? A. I would think that is probably true.

Q. General, I think that it is in evidence that Congressman Boykin contacted you for an appointment on March 25, 1961, is that not correct? A. He contacted me, as the record shows, on March 22 and the visit was on March 25.

Q. And in that request did it not state that it was a personal matter to be discussed? A. That is what the notation says.

Q. I recall your telling Mr. Tydings, however, that Congressman Boykin and Defendant Johnson appeared in the capacity as Congressmen? A. That is correct.

Q. Did you make that statement? A. Yes.

Q. Well, after reviewing your notes, would you say then that you were advised on March 22 at the time the appointment was made that it was a personal matter to be discussed? A. Well, that notation from the secretary never, to my recollection, came to me. But I would say that neither Congressman Boykin nor Congressman Johnson ever said to me that this was a personal matter, as they entered the room or in any other visitation, did they mention to me that this was other than in their capacity as Congressmen.

Q. Now the appointment was on March 25, 1961 when Defendant Boykin and Defendant Johnson visited your office? A. March 25, 1961, yes.

Q. And you recall that it was on a Saturday, was it not, sir? A. That is correct.

Q. Do you recall what, if anything, that was brought to your office at the time of the visit? A. I think that there

were maps and charts. I do not know if there was anything else.

Q. Incidentally, I believe there were some pecans brought to you, was there not, at the time, sir—from Congressman Boykin? A. I do not remember that.

Q. You do not remember that? A. There might very well have been some pecans but I do not happen to remember it.

Q. But you do remember a lot of charts? A. Maps or charts.

Q. But, General, were they not drawings of a proposed development in Southern Maryland? A. I cannot tell you exactly. I know there were a lot of papers and as I remember, there were some maps or charts. Maybe they were drawings.

Q. Do you recall what the name of the proposed development was as shown on those drawings or charts? A. No, I do not.

Q. If I refresh your recollection, would you agree that or say that it was termed "Boykin City"? A. I know that the term "Boykin City" was used during the course of some of the discussions. Now, I do not know whether that name was on any particular chart or not.

Q. Now, what further, would you describe to the jury how many charts, if you know, and what did those charts or drawings actually show? A. I just do not know, Congressman.

Q. Well, General, you looked at them, did you not? A. I think I did.

Q. Can you state whether it showed a proposed development as to housing, commercial area, buildings, golf course, country club and others? A. I have no idea, Congressman.

Q. You do remember seeing it? A. I do remember there were some papers and I do not remember much beyond that.

Q. You say papers. You were speaking of the charts or

drawings. How large were those drawings? A. I do not know, Congressman.

Q. Do you recall that they were so large that it was necessary to have somebody to bring them to the office? A. Well, I recollect that someone went and got them. I do not know if it was because they were large or you left them in the car. I recollect that someone was sent out of the office to bring something but I do not remember how large they were.

Q. So, then on the 25th of March, 1961, you do recall then Defendant Boykin and Defendant Johnson coming to your office with these charts or drawings and there was discussion in your office, is that correct? A. Yes, I believe so.

Q. Now, is it not true that the discussion generally dealt with a development in Southern Maryland? A. Yes, Congressman. I mean when you say Southern Maryland, again, as I think the attorney has pointed out, this really did not mean a great deal to me at that time. I had not followed the case and I had just become attorney general. There were a lot of other things going on. There were other meetings taking place in another office that same day so I had to step out of my own office.

As I have looked at the record since then, it is clear or apparent that it was probably Southern Maryland but I cannot say that I knew at the time what area it was or what exactly you were talking about.

Q. But you knew it was in Maryland? A. Yes.

Q. And at the time of the discussion did we not relate about the great unemployment going on in Maryland and elsewhere? A. You might have, I do not recollect it.

Q. Do you recall any statement being made that in this particular area it had been declared a distress area by the Government? A. I do not remember that, no, sir.

Q. Now, I believe on direct examination you answered a question by Mr. Tydings that you did not know of any per-

sonal interest Congressman Boykin had in this particular development, is that correct? A. I think I was asked whether there was any statement made by either Congressman Boykin or Congressman Johnson of the fact that they had any personal interest. I think the question was whether you ever stated—Congressman Johnson ever stated that he was receiving some fees in connection with your visits to me and I said you did not.

Q. You mean-- A. I think I was asked then whether Congressman Boykin had ever stated that he had any interest in this area and I said "to the best of my recollection, he did not."

I said Congressman Johnson did not. And to the best of my recollection Congressman Boykin did not.

Q. General, what—did you say that, on direct examination when Mr. Tydings mentioned about the fees being paid, atorneys fees? A. Or whatever the question was. Something in connection with payments of some kind.

(The Court) Would you like me to read by notes to clarify it? I will do it if counsel wishes. I do not want to interfere.

(Mr. Williams) I do not know what Your Honor asked.

(The Court) I have a note about these particular questions about which Mr. Johnson is asking.

(Mr. Williams) I think the Attorney General accurately stated what he stated earlier. I do not think it is necessary.

(Mr. Johnson) Yes, I will not press it.

By Mr. Johnson:

Q. Do you recall any discussion at the meeting as to how large a development was proposed in Southern Maryland? A. Well, I can tell you what my impression was, that it was large. But I do not know whether anything was stated at that time. Perhaps later meetings it was stated but I had the impression it was a large development going on.

Q. Would it be correct to say that it was as much as 8,000 acres to be developed? A. I have no idea.

Q. Was there anything in the conversation as to how this tract was acquired? A. I have no idea. I have no idea.

Q. Now, General, at the meeting, is it not true that Congressman Boykin spoke about the amount of taxes that he would pay if this development became a reality? A. I do not remember, Congressman.

Q. General, do you remember a statement that Congressman Boykin would pay in excess of $1 million in taxes, and you said that the Government needed it? A. I do not remember that.

Q. You do not remember anything about taxes? A. I do not.

Q. Do you recall him stating that he had been accumulating this land for a long period of time? A. I do not remember that, Congressman. As I say, in complete fairness to Congressman Boykin, and the answer to the question from Mr. Tydings, I said that to the best of my recollection in connection with this whole matter.

Now, it is possible that some of these matters that you are discussing were brought up. As you are bringing them up here, I do not happen to remember them.

Q. Now, do you recall that in the discussion that a name "Desser & Garfield" was mentioned, as developing or endeavoring to develop this, that it was a question of financing? A. No, I do not.

Q. You do recall that the name Edlin arose and First Colony Savings and Loan, is that correct? A. Well, even the name did not make such sense to me at the time. As I look back on the other visits that occurred, it became clear to me that the individual in whom you, Congressman Johnson and Congressman Boykin, were interested was Mr. Edlin.

Q. General, the purpose centered, did it not, in the con-

versation to promote this development in Maryland, did you not gather that from the conversation? A. I gathered, from the conversation, that you were interested in doing something about Mr. Edlin's indictment.

Q. And why? A. Because, as I have said earlier, because it had an effect—if the indictment went through it would be bad publicity and it would have an adverse effect on this development.

Q. In the discussion was anything said that it interfered with the financing of this project? A. Well, as I said, in its future development and I assume that that meant that the financing would be more difficult if the prosecution of Mr. Edlin went ahead.

Q. Now, in the course of conversation, did you hear defendant Johnson say that neither Congressman Boykin nor defendant Johnson were there to seek any favors from you, to interfere in any way with the pending criminal cases, to which you replied, and I quote "Of course, I know that"?

(The Court) Now, again—

By Mr. Johnson:

Q. I ask you if that was your conversation and your reply?

(The Court) What are you quoting from? Quoting from the—

By Mr. Johnson:

Q. General, I will restate it if you want me to. I will withdraw it.

(The Court) Because I have to renew the warning that I gave you at the time that if you are quoting from some document, it must be in evidence or must be produced to put it in evidence.

The witness is entitled to know what you are quoting from.

(Mr. Johnson): Withdraw the question and ask another one.

By Mr. Johnson:

Q. In the course of conversation, do you recall its being said by Defendant Johnson that neither Defendant Johnson nor Congressman Boykin was there to ask any favors or to interfere in any way with the pending criminal cases? A. I do not remember those exact words, either in that meeting or other meetings but I could tell you what was said along those lines if you care. To the best of my recollection.

(The Court) I think he is entitled to finish his answer.

(The Witness) I think what was said either at that meeting or subsequent meetings that you were not there to ask any favors or anything improper from the Department of Justice or from the Attorney General.

Now, I do not know what words were used but I think that point was made.

By Mr. Johnson:

Q. In reply, do you recall stating, or words similar, "Of course I know that?" A. Well, I might very well have. I do not remember the exact words but I am sure that I did not think at that time that there was anything improper in what you were doing.

Q. Now, following that there was a rather long conference dealing with this land development which continued for how long, would you say? A. Now, which conference?

Q. The first meeting that you had? A. I do not think that lasted very long, Congressman. But I might be mistaken on that. As I say, I thought that I had to come out of another meeting which was taking place in my office and meet with you in another office and so it is my recollection that it did not last very long.

But you might know better about that, Congressman.

Q. In the closing of the meeting do you recall making

a statement, or words inferring that you considered the economic advantages that would be gained by this development that they would outweigh any of the pending criminal cases? A. No, I certainly did not.

Q. You do not recall that? A. Not only do I not recall it, but it is completely out of character for me.

Q. Well, now, following then, if it is out of character, did you or did you not ask that a memorandum be prepared? A. I believe I did, yes.

Q. You could at that time have told the defendant Boykin and Defendant Johnson that there was nothing further to discuss and there was no need for continuing the discussion further. You could have, could you not? A. I could have done that.

Q. Did you do that? A. I did not.

Q. But on the other hand, you asked for a memorandum? A. I did.

Q. How did you ask that memorandum be sent? A. I do not recall. Probably to me. I do not know.

Q. Did you not ask that it me sent by special messenger personally to you? A. I might have very well done that, Congressman.

Q. As a matter of fact, didn't you receive it by personal messenger? A. I certainly do not remember that, Congressman. If you say I asked for a special messenger, and it had to be sent directly to me, I certainly would not quarrel with that.

Q. And, General, didn't you go further and set the date when we were to come back? A. I do not recollect that, Congressman, but I might very well have.

Q. Do you not recall stating that "I want to see you the following Thursday?" A. I do not remember that but I might very well have done that.

Q. Well, following— A. Could I say something about that?

Q. Yes. A. I think that just to get this all in the proper perspective when I said it was "out of character," I think that Congressmen or Senators are entitled to come in and represent their constituencies, represent their constituents and I think that, if they feel that the Department of Justice, or I have been unfair in any way that they are certainly entitled to bring that to our attention and you came in and felt that and expressed very strongly that we had been unfair to Mr. Edlin and that this indictment should not have been brought.

Now, it is possible that we bring indictments that are unfair and that we cause an injustice or if someone comes in—whether they write me a letter or if a Congressman or Senator comes in and says this indictment should not have been brought, that it is unfair that all the facts have not been developed, that those who are running the case have personal prejudice, I will look into it and I will make sure that the matter is examined.

Now, when you came in to see me about Mr. Edlin and said that Mr. Edlin should not have been indicted, that this was a question of prejudice, I felt that it was my responsibility to make sure that that had not been an unfair indictment, that there had not been an injustice committed against Mr. Edlin. I did not want to offset the fact that there was an indictment that should be brought versus the fact that there was an economic development. If the indictment should be brought, if justice demanded that it be carried through.

I am interested in any case whether Senator or Congressman or anyone says they have been unfairly indicted or prosecuted improperly, we would look into it. That is what I was anxious to do in this case.

You said we came in and talked about Mr. Edlin and I said I wanted to have a memorandum immediately, I wanted to make sure we had not been unjust.

Q. General, may I ask then after submitting that memorandum, why did you request defendant Johnson to go back to your department? A. What date of time are you talking about now?

(The Court) Is there evidence that he did? Is there evidence that he did request that he go back? He can refresh his recollection somewhat about that.

By Mr. Johnson:

Q. General, I ask you that following the meeting when you requested the memorandum, do you not recall a request of the defendant Johnson to return back to your department? A. I do not, Congressman, but as I say, it might have very well happened. I just do not remember.

Q. And you do not recall then that Defendant Johnson was requested to go back the following Thursday? A. Did you come back the following Thursday?

Q. I am asking you whether or not you recall. A. I tell you this, Congressman. This is just about two years ago. I do not remember it. If you tell me what you are talking about, maybe I can get it cleared up.

(The Court) Are you suggesting or asking the witness whether he requested the Congressman to come back to see him, or requested the Congressman to go see Mr. Miller who was in charge of the Criminal Division? The question has been "contact with the Department," and it was not clear to me and I do not know whether it is clear to the witness.

(Mr. Johnson) I will rephrase it.

By Mr. Johnson:

Q. Is it not true that you as Attorney General after the meeting on March 25, 1961, personally requested the defendant Johnson to come back to you to see you personally the following Thursday? A. I do not recollect that.

Q. Do you recall receiving a communication from Defendant Johnson on March 28, 1961? A. No, I do not.

(The Court) Now, what is that in relation to the document? There has been offered in evidence the principal presentation that was made. A letter from, I think it was, Mr. Johnson—a two page summary and then a very elaborate statement. What was the date of that?

(Mr. Johnson) Your Honor, we had not gotten to that yet. I am leading up to that now.

(The Court) As I understood, the witness said he asked you to send a statement. Now, this is something before the statement was sent.

(Mr. Johnson) This is before the statement was sent there and I asked him whether he did not request defendant Johnson to come to his department. I ask you if you would look at government exhibit 86-A and see if that refreshes your recollection?

(The Witness) I do not see that this adds anything, Congressman.

By Mr. Johnson:

Q. Did you not receive a letter from Defendant Johnson saying that he could not be at your office on the following Thursday and would make it another time. A. Yes.

Q. Yes. A. I still do not understand how that gets to the point that you have been making.

Q. General— A. Perhaps you could read the paragraph and then there would not be any mystery about it.

Q. With the Court's permission, may I read the first paragraph?

(The Court) Is it in evidence?

(Mr. Johnson) Yes.

(The Court) Certainly you may read it.

By Mr. Johnson:

Q. Letter to the Honorable Robert F. Kennedy, Attorney General, Washington 25, D.C.

"Dear Mr. Attorney General:

"Pursuant to your suggestion on Saturday past, I am happy to deliver by messenger the enclosed memorandum.

"As I will be in the District for the Easter Recess, I would appreciate the opportunity of calling you on my return Monday week rather than on Thursday next."

So, I ask you whether that refreshes your recolleciton that I was, at your request, to meet you on the following Thursday? A. No, it does not. I say it could possibly have happened. I think that letter shows that we evidently had an appointment on Thursday which you suggested be put off until the following Monday. How we happened to arrive at the appointment on Thursday, I do not know.

Q. Would you deny to the jury, General, that you made that appointment? A. I think I made it quite clear, Congressman. I just cannot remember. If you say it happened, I am sure that it did. I just do not remember how we happened to make the appointment on that Thursday.

(The Court) "That Thursday" would have been several days after the report was delivered, is that it?

By Mr. Johnson:

Q. Now, General, when was the next visit according to your calendar that the defendant Johnson visited your office? A. Well, on April 10, 1961 the record shows that Congressman Tom Johnson's office called "he would like an appointment to see you today or tomorrow, preferably in the morning."

So that is Mr. Kiernan's extension 5464 and then an appointment was made April 12, 1961. That first meeting, according to our records, Congressman, was a meeting on March 25, 1961 and the next meeting was after a request from your office to meet with me. We met then on April 12, 1961.

Q. So that the second meeting was on April 12, 1961? A. 1961.

Q. You recall that meeting, you were present, were you not at that meeting? A. Yes, I was.

Q. Well, can you tell the jury whether or not you discussed further a review of this pending matter? A. I believe I did and I think I have testified on it that Mr. Miller was present at that time and we discussed this matter with you.

Q. And at that time did you tell the defendant Johnson that the matter was closed, that there was no need for further conferences? A. Not to my recollection.

Q. But, on the other hand, General, didn't you tell Defendant Johnson that you had turned the case over to Mr. Herbert Miller, head of the Criminal Division and that defendant Johnson and Defendant Boykin were to get in touch with him? A. I believe that is correct and I believe that is what I testified to.

Q. So you encouraged the meeting then or asked the meeting be held with Mr. Miller? A. I do not think I was encouraging anything, Congressman. You were interested in the indictment of Mr. Edlin and the dismissal of it and I said, I think, quite properly that these matters should be handled in the proper area which is the criminal division and not with the Attorney General of the United States.

Again I go back to the fact that I think, if we had brought the indictment unfairly, we should have those facts brought to our attention. You felt that we had brought the indictment unfairly and that the matter was being prosecuted because of prejudice and so, therefore, I wanted to make sure that that was not true and, because I think, as your attorney has said, we want to bring justice to all the people.

Q. General, before proceeding on with the April 12 meeting in 1961, I want you to tell the jury whether at that meeting on April 12, 1961, or at any meeting with you, there was ever a request by Defendant Johnson or defendant Boykin to dismiss or interfere in any way with your department? A. Well, now, can I tell you what did occur?

I do not think anyone said he wanted this indictment dismissed.

Q. Of course not. A. I reached the clear conclusion that what you wanted to accomplish was the dismissal of the indictment.

(Mr. Doub) Just a minute.

I object to that, Your Honor, because he is stating an impression. I think he can—

(The Court) He can state the effect of the request.

(Mr. Doub) Anything said to him, Your Honor.

(The Court) He can state the substance of the request.

(The Witness) The substance of what, all of the meetings?

(Mr. Genn) I do not believe he can state his mental impressions or intentions.

(The Court) He is not to express his mental impressions. He may state the substance of what was done because it is admissible against your client as an alleged act in furtherance of the alleged conspiracy.

Go ahead.

(The Witness) These meetings that occurred were for the purpose of dismissing the indictment against Mr. Edlin.

By Mr. Johnson:

Q. Now, General, let us call your attention again, may I, to exhibit 85-A, and ask you if, in view of this letter, that is a correct statement to this jury?

(Mr. Tydings) I think maybe we had better have 86-B and C read to the jury at the same time since they were attached to the letter.

(The Court) He is talking about the impression or the substance of a series of conferences. Now, you hand him one letter which is taken off of the papers with which it was associated.

(Mr. Johnson) We have only had two meetings. We have only had the meeting on March 25, 1961 and the meeting on April 12, 1961.

(The Witness) Let me say, Congressman, when I gave that answer, I am summarizing the various contacts that were made with me.

(The Court) I understood the question dealt with the whole series.

(The Witness) The whole series of contacts. I cannot tell you any specific language about it.

(Mr. Johnson) Well, General, the two meetings that we refer to were the only meetings that defendant Johnson and Defendant Boykin discussed this matter personally with you, is that not right? Do you understand the question? A. No, I do not.

Q. I say the two meetings that we referred to on March 25, 1961 and on April 12, 1961, in which the defendant Johnson and Boykin were both in attendance, that was the only meeting defendant Johnson and Defendant Boykin had personally with you?

(The Court) Are you talking about only, with the two of you together or about one of you separately? I think we ought to understand the question.

(Mr. Johnson) I said first together.

(The Witness) I think there was a meeting on August 31, 1961, September 7, 1961 and October 17, 1961.

By Mr. Johnson:

Q. Meeting personally with you? A. Yes.

Q. Defendant Johnson? A. Well, now—

Q. And defendant Boykin? A. The record shows on August 31, 1961 a meeting from Congressman Boykin. I do not know whether you were present or not. The meeting on September 7, 1961 was Congressman Johnson and I do not know whether Congressman—

Q. General, I ask you a simple question whether the two defendant Johnson or Boykin had any other meetings with you together other than the two that we refer to in March and April of 1961? A. That is the first time you have asked that question.

Q. I thought I asked that before? A. I understand that those are the two meetings that we have down here, Congressman. I am not sure whether you accompanied one another in either of the meetings of August 31 or September 7 or October 17. I am not certain about that.

Q. Now, you have made the statement of some assumption about the dismissal of an indictment of Mr. Edlin. I will ask you to refer to government Exhibit 86-A which is a letter that I referred to on March 28. And ask you if it is not in simple plain terms that the matter was for review only? A. Yes.

Q. Then why do you tell the jury that it was to dismiss when there is a letter setting forth fully what the intent was? A. Well, Congressman, can you tell me why you were so anxious to come in there and have us review it if you did not want us to dismiss it?

Q. General, I am going to answer that question.

(The Court) I think we must stick to questions and answers of fact. I think that the answer should stop there.

(Mr. Johnson) I am sorry, Your Honor.

(The Court) You should not argue.

(Mr. Tydings) Your Honor, we would like to give the jury 8y-A, B and C and refresh their recollection with it again to see just what the Congressman was talking about.

(The Court) I think, Mr. Johnson, you can confine your questions to facts that you want and your counsel can argue it later. And other evidence can be put in. This is not the time to argue the case.

(The Witness) Congressman, I said—to the best of my recollection no request was ever made to dismiss it.

(Mr. Williams) Your Honor—

(Mr. Johnson) Let him finish. I would like to get that.

(Mr. Williams) Let us clear the record on something. Are all three of those in evidence, A, B and C, or have two of them simply been marked for identification? Would you look, Mrs. Zielinski?

(The Clerk) They are all in evidence. Only certain pages of 86-C have been admitted.

(The Court) Mr. Tydings, if they have not been fully admitted in evidence—

(Mr. Tydings) We would like then to offer—

(The Court) I believe they were identified.

(Mr. Williams) I have no objection to their going in, Your Honor.

(The Court) They were to be offered when someone from the Department of Justice was on the stand to say when they had been received.

(Mr. Tydings) 86-A has been offered. 86-B has been offered. 86-C has been offered in so far as certain pages are concerned and marked. The Government will now ask that 86-C be offered in its entirety. If it has not already been so offered.

They were all connected with the covering letter which Mr. Johnson sent to the Department of Justice. You recall the testimony of Mr. Johnson's secretary about the dictation of them.

(The Court) If there is no objection from the defendants.

(Mr. Genn) The only objection that has been raised previously was the prejudical character on which the Court has already indicated its ruling.

(The Court) That is right. You have your exception on the point that you have made before. Now, 86-B is in evidence if it was not already so.

(Mr. Johnson) Your Honor, with permission, since the letter on the 28th has been introduced into evidence and partly read, I think in fairness to the jury, I would like permission to read that short letter to the jury at this time.

(The Court) Has it not already been read?

(Mr. Williams) It has been read, yes, A, and B have been read.

(The Court) I think it has been read. A and B have been read. I do not see any point in taking the time to do it now, though, certainly at an appropriate time 86-A, 86 and 86-B all parts of them may be read to the jury as you wish.

I think it is understood that the thick document was not read to the jury at the time it was first offered but counsel would attempt to decide which parts of it each one wanted read in order to avoid taking the time to read a great deal of what might be immaterial and that can still be done at some time during the government's case or at some time during the defendant's case as you wish.

By Mr. Johnson:

Q. Now, General, to get back to the April 12 meeting of 1961, did I understand that you did advise defendant Johnson and defendant Boykin that you had turned the matter over to Mr. Miller—the head of the criminal division? A. I believe I did.

Q. And for what purpose did you turn it over to him? A. So that he could review the matter and see if an injustice had been committed.

Q. So as of that time it was to be reviewed? A. Yes.

Q. You had no request to dismiss up to that time, had you, by Defendant Johnson or Defendant Boykin? A. I think I made that clear. I do not think I ever had a request to dismiss the matter.

Q. And did you turn it over to Mr. Miller? A. Yes.

Q. Do you recall telling the defendant Johnson and the

defendant Boykin to contact Mr. Miller? A. I am sure I did.

Q. So then you were inviting, were you not, the appointment with Mr. Miller by defendant Johnson and defendant Boykin in this matter? A. Congressman Boykin and Congressman Johnson were interested in this matter and they wanted to have certain answers and achieve certain results so I recommended that they contact Mr. Miller for further review of this situation.

Q. General, to clarify it, did you not personally, as Attorney General, suggest to defendant Johnson and Defendant Boykin that they were to contact Mr. Miller?

(The Court) I think he has specifically answered that.

(The Witness) Instead of me, Congressman Johnson, Mr. Miller was the correct place for this matter to be reviewed. This was a criminal matter. Mr. Miller was head of the Criminal Division. If they wanted to have anything further accomplished in this case, then they should contact Mr. Miller.

(Mr. Johnson) Your Honor, please, I would like for him to answer my question. Everytime I ask him the same question, he evades the answer.

(The Court) I think the answer is a sufficient one and I will not give the instruction you request but you may ask another question.

(Mr. Johnson) All right.

By Mr. Johnson:

Q. Now, what other meeting did you have with Defendant Johnson and defendant Boykin personally after the April 12th meeting? A. Well, the record shows that, Congressman, and I have to speak from the record, it shows that Congressman Boykin came by on August 31, 1961.

Q. And I think it is stated there that on September 5 defendant Johnson requested an appointment, is that right? A. Yes, sir.

"Congressman Tom Johnson's office called to confirm the appointment he made with you for this Thursday."

Q. And is it not true that there was an appointment with you by defendant Johnson on September 7, 1961? A. Yes.

Q. Now, Mr. Tydings asked you on direct examination, General, did Congressman Johnson or Congressman Boykin discuss with you any other matter other than what you have testified to, and your answer was, "No." Do you remember making that statement? A. No, I do not. I do not think I answered that way.

Q. Well, now, General— A. I think the question—shall I say what I think the question was and what the answer was? Do you want me to do that?

(The Court) Do you wish him to do that?

(Mr. Johnson) I will ask a question. Did Congressman Johnson or Boykin discuss with you at any time matters other than what you have testified to and I include in that possibly discussions on legislation?

(The Witness) Yes, and I think I made that clear in answering Mr. Tydings' question.

(The Court) You may answer it again.

(The Witness) I made that clear. I think Mr. Tydings asked me whether the purpose of the meeting was in connection with Mr. Edlin and I said that it was but it did not preclude the discussion of other matters.

By Mr. Johnson:

Q. And what other matters, General? A. I think such as perhaps you mention there might have been legislation or any other matters. I think Congressman Boykin was particularly interested originally about the rules fight and I know that we discussed that and I think that very possibly we might have discussed some legislation of the Department of Justice that was then before Congress.

Q. Now, General, do you have any notes on your meeting

with defendant Johnson on September 7, 1961? A. I do not.

Q. Do you recall what was discussed at that meeting? A. I can just give you the best recollection I have.

Q. What is that? A. Which is based on the examination of some of the records and conversations that I have since had. Would you like me to give you that?

Q. General, if I tell you at that—

(The Court) Wait a minute.

(Mr. Johnson) I do not ask for it, no. Because it is—I will develop it in another way.

(The Court) All right.

By Mr. Johnson:

Q. If I tell you that on the meeting of September 7, 1961, that the Edlin case was not discussed, would you say that is a true or false statement? A. Well, I would say that to the best of my recollection it was discussed.

Q. May I refresh your recollection? Do you recall that on September 7, 1961 Defendant Johnson coming to your office in respect to rumors that were being made in his district as to Mr. Tydings' making allegations about the visits to your department, that they were not true. You know they were not true and I asked you to intercede about it and you said "I will take it up with Mr. Miller." Do you remember that? A. I think you did, Congressman. In my judgment that was again about the Edlin matter. The rumors were, as I remember them now, Congressman, that you were attempting to fix the case of Mr. Edlin. That these rumors were around and that you came in to see me and said that these rumors should not be circulated, that you were attempting to fix the Edlin case.

Q. Now, General, did it say fix."

(The Court) Now—

(Mr. Johnson) I am asking a question on that. Were not

the rumors that—they had nothing to do with "fixed" but defendant Johnson and Boykin were making visits to the Attorney General's Office in respect to Mr. Edlin?

(The Witness) To get the indictment dismissed. That was the rumor, Congressman, that you expressed concern about as I recall.

By Mr. Johnson:

Q. Did you not say you would take it up with Mr. Miller? A. I am very certain that I did.

Q. Did you say there was any merit or truth to that statement at that time or rumors? A. I do not know what my exact answer was on it. I am sure I said I would take it up with Mr. Miller, and I did take it up with Mr. Miller.

Q. To your knowledge did not Defendant Johnson and Defendant Boykin take it up with Mr. Miller, too? A. I think they probably did. I know there was a good deal of discussion about it.

Q. That was in September of 1961, is that correct? A. Very likely.

Q. Did not Mr. Miller telephone Mr. Tydings to tell him that there was no truth to such a rumor. Do you have knowledge of that? A. I do not, no. I know we discussed it with Mr. Tydings.

Q. So then the meeting on September 7 does refresh your mind as to the reason defendant Johnson came to your office?

(Mr. Williams) Your Honor, may we have the answer read—not to this question but the answer to the prior question read back because I'm not certain whether the witness misspoke himself or not. My understanding, and I am not sure I heard him accurately, he said, he did take it up with Mr. Miller.

I do not know whether he meant Mr. Tydings or not. Would you read that back?

(The Witness) I can say what it meant. I did take it up with Mr. Miller and I am confident from what I heard, again, I was not there, but I am confident that Mr. Miller took this matter up and discussed it with Mr. Tydings.

(The Court) That is right but as to what Mr. Johnson included in his question as to what Mr. Miller said to Mr. Tydings is not evidence in this case. If Mr. Miller takes the stand, Mr. Miller can be asked, or other evidence can be put in.

(Mr. Johnson) Could we have a five minute break, Your Honor?

(The Court) Mr. Johnson has requested a five minute break.

We will certainly take some further time.

(A brief recess was taken.)

(The Court) Bring the jury in.

(The jury returned to the jury box.)

By Mr. Johnson:

Q. May it please the Court. General, I believe that at the time of our recess we were speaking of the September 7, 1961 meeting. A. May I have those pages back?

Q. I don't know—A. Did I leave them there.

Q. I say, I believe at the time of our recess we were speaking of the meeting on September 7, 1961, is that correct? A. Yes.

Q. So you have testified to three meetings as to Defendant Johnson, have you not, sir? A. I believe so, yes.

Q. Now, were there any other meetings that you recall, or referring to your notes, that Defendant Johnson talked with you? A. Well, now, these are the only ones that are indicated in my notes, and I would have no other way of knowing that.

Q. Now, would you have knowledge as to any visits De-

fendant Johnson or Boykin made to Mr. Miller, who is head of the Criminal Division? A. Let me say I know that the meetings were taking place, but I don't have any independent recollection, nor can I give you any specific case.

Q. Did Mr. Miller keep you advised, sir, as to those meetings? A. To some extent he did.

Q. Did you make notes or memorandum of the meetings? A. You mean what he told me about the meeting?

Q. Yes. A. I did not.

Q. You have testified on direct examination that knowledge came to you in respect to a case known as the Dranow case, which allegedly involved Mr. Hoffa? A. That is correct.

Q. Would you tell the jury as to when you first had that information? A. When I first had the information about what?

Q. As to the Dranow case, which allegedly connected Mr. Hoffa. A. Well—

(The Court) What do you mean Dranow and Hoffa or with Edlin involved in it.

By Mr. Johnson:

Q. With respect then to first the Dranow case? A. And Hoffa.

Q. And Hoffa? A. 1957.

Q. In 1957. I believe you stated that Defendant Boykin communicated with you in respect to the Dranow case, is that correct? A. If I may say so, we are going to get into a real can of worms because Dranow is involved in a number of matters, Congressman, which had nothing to do—

Q. May I then withdraw the question?

Did Congressman Boykin communicate with you in respect to an alleged stolen $100,000 government note? A. Yes, that is correct.

Q. When did you first receive any information from defendant Boykin in respect to that alleged $100,000 stolen note? A. I do not know exactly but it was in early 1961, I believe, and my best recollection it was at some kind of a social function but I do not know exactly where it was.

Congressman Boykin and Mrs. Boykin were at my home for dinner on one occasion. It might have been then but it might have been some other time. I believe it was before the meeting of March 25, 1961. I believe it was early 1961 but I cannot give you the exact time.

Q. Or, did you receive any written memorandum or note from Congressman Boykin in respect to the $100,000 alleged stolen note? A. I believe that—I think he wrote me several letters and I think that in one or two of those letters he mentioned the fact and I think particularly after the meeting of October 17, he mentioned, of 1961, he mentioned the fact that Mr. Edlin could be extremely helpful to the Government in connection with the $100,000 stolen bond and had a good deal of information and should testify.

Q. And in response to that what, if anything, did you do as Attorney General? A. I think, as I have stated, I referred it to Mr. Miller, head of the criminal division, and I also talked to Mr. Walter Sheridan who was working on the matter.

Q. Do you have any knowledge of what Mr. Sheridan did? A. I believe he interviewed Congressman Boykin to obtain whatever information the Congressman had on this matter.

Q. So then in response to the information received from Congressman Boykin, you did make an investigation through your department? A. That is correct.

Q. And you also stated that you talked with Mr. Miller, in respect to this note? A. I believe I did, yes.

Q. Now, at that time did you do anything further in respect to this investigation of the $100,000 note? A. I do not believe I did, no.

Q. To your knowledge, do you know whether Mr. Miller did anything further? A. I am sure he talked to those who were involved in the investigation and he might have asked the FBI to look into it. I think, as has been pointed out here, Mr. Edlin ultimately appeared before a grand jury in Florida in connection with this and, in fact, he might have appeared twice. He was interviewed a number of times and it was felt that those interviews were not satisfactory and this, I believe, was communicated to Congressman Boykin and he then said that Mr. Edlin wanted to cooperate and wanted to give all the information and so then he appeared before a grand jury and it was reported to me that those who were handling the grand jury did not feel that he had been completely truthful and had given all the information.

(Mr. Genn) If the Court please, can we approach the bench?

I am going to move to strike that if the Court please. That is highly prejudicial to this defendant; it is the drawing of a conclusion from what other people have stated. It is hearsay. I move for a mistrial with respect to this defendant. This testimony has consistently made references to matters which have no reference to this particular case.

It may or may not have been brought out appropriately so far as the other defendants are concerned, but in so far as this defendant Edlin is concerned, they have brought in everything from all over the place except what is involved in this particular proceeding and again I renew my motion for a mistrial.

(The Court) Denied. I have instructed the jury and I will instruct them now that this testimony of the witness just stated about what Mr. Miller told him or as to what someone told him as to what people in charge of the grand jury investigation thought of Mr. Edlin's testimony is not to be considered by you as evidence against Mr. Edlin in this case.

I strike that out as evidence against Mr. Edlin. I deny the motion for a mistrial and I renew my instructions to the jury that they are only trying the particular case here and they are not trying any other and they are not to consider what Mr. Edlin may have done or may not have done in connection with matters that have nothing to do with this indictment.

The concluding portions of your remarks, Mr. Genn, will come more appropriately in your motion at the end of the case.

(Mr. Johnson) Do we have a question, Your Honor? I do not know.

(The Court) I am not sure whether he finished his answer. I think it was the end of the answer that produced the motion from Mr. Genn.

By Mr. Johnson:

Q. General, may I ask you again, you did confer with Mr. Miller from time to time in respect to this one hundred thousand dollar alleged note? A. Yes.

Q. You testified you have knowledge that Mr. Edlin was to be interviewed in respect to this note? A. Yes.

Q. Now, do you have knowledge as to the number of conferences Mr. Miller, your subordinate, had with defendant Johnson and Defendant Boykin in regard to this $100,000 note?

(The Court) Hasn't he answered that he does not know how many conferences there were?

(Mr. Johnson) I do not think he has answered it on the conferences.

(The Witness) You mean conferences on the $100,000 note.

By Mr. Johnson:

Q. Yes, Mr. Kennedy, with Mr. Miller. A. I have no idea.

Q. You do not? Do you have knowledge that there were conferences with Mr. Miller, your subordinate by defendant Johnson and Boykin in respect to this $100,000 note? A. No, I do not.

Q. You have no knowledge of that? A. No. Can I try to clarify it? I assume that this $100,000 note was brought up in the course of the conversation just as it was with me but I was not aware that either Congressman Johnson or Congressman Boykin had any personal knowledge of the stolen $100,000 note.

Q. But you testified that you met Congressman Boykin at a social function. He mentioned it to you there. You also stated that you had a letter.

(The Court) I think you are talking at cross purposes. The Attorney General said he did not know that the Congressman, Mr. Boykin had any personal knowledge about the note, and he is not saying that Mr. Boykin did not mention it to him about Mr. Edlin's possibly having some knowledge.

(Mr. Johnson) But, Your Honor, I want to clarify because I understood him to say that Congressman Boykin did have knowledge and conveyed what knowledge he had to you? A. Yes, but he was not involved, himself in the stealing of the $100,000 note. I never said that. He had some information from someone else that they had knowledge about a stolen $100,000 note. He suggested we get in touch with him. I never claimed that Congressman Boykin was involved in the theft of the $100,000 note.

By Mr. Johnson:

Q. But you do maintain that Congressman Boykin brought it to your attention? A. Yes.

Q. You know that Mr. Miller had knowledge of this $100,000 note? A. Yes, we all had knowledge of it.

Q. Now, do you know to your knowledge of any difficulty in respect to having defendant Edlin appear in Florida

before the Grand Jury? A. As I understand it, there was some difficulty. I cannot give you the details of it.

Q. Would it be a correct statement to say that your office naturally requested defendants Johnson and Boykin to make the contact and to try to persuade Mr. Edlin to go to Florida to testify in the Hoffa investigation? A. I do not know that.

Q. You do not? A. No. I know, as I said already, I do not know whether you wanted me to repeat it, I have said already that Congressman Boykin—I was not aware of your knowledge or interest—indicated right from the beginning that Mr. Edlin had some information about a $100,000 note. He was very anxious for him to testify. I know that there was some difficulty and I know that we had some conversations about it and I related the fact that there was some difficulty and now I am going to get into problems. I will not tell you what the difficulty was.

(The Court) I will tell you to stop answering because of Mr. Genn's suggestion that it might have more prejudice to him than it coud have merit to you.

(Mr. Johnson) Your Honor, may I explain I think the reason for pressing it, there were visits to Mr. Miller.

(The Court) Mr. Miller will be here.

(Mr. Johnson) If he will be here, all right.

(The Court) The government has said Mr. Miller will be here so I see no point in trying to get it out by second hand.

By Mr. Johnson:

Q. General, one last final question. Do you have a report or was a report made to you by any of your subordinates that on January 3, 1963, that a —

(Mr. Tydings) If Your Honor please, I think we had better approach the bench and find out what the proffer of the cross examiner is since it is out of the indictment period. I would like to approach the bench. What the proffer is. What the question is.

(At the Bench.)

(Mr. Johnson) Here is what I want to ask this witness, whether or not he had knowledge or was it pursuant to his instructions that his subordinate came to defendant Johnson's office on January 3, 1962, in which he reported on?

(The Court) What date?

(Mr. Johnson) It was on January 3, 1962.

(The Court) It is not 1962 — I mean it is not 1963?

(Mr. Johnson) No, 1962. Came to his office and reported on what the investigation was being made to assure Congressman Johnson that there was nothing to the investigation and not to worry about it.

(Mr. Tydings) I do not think that is proper. It is outside the indictment period.

(The Court) That who was—

(Mr. Johnson) Miller.

I want to know whether he has knowledge. He is his subordinate. Whether he had a report on it or whether he sent him.

(The Court) I think that you—

(Mr. Genn) I think, speaking for defendant Edlin, that is beyond the scope of the direct examination.

(The Court) Well, it certainly is beyond the scope.

(Mr. Tydings) It is outside of the indictment period.

(The Court) I think that the Government, this is not a suit of Mr. Kennedy against Mr. Johnson. This is a prosecution instituted by the grand jury in which the government is represented here by the U. S. Attorney. I think it is a proper question for you to ask Mr. Miller but if Mr. Miller takes certain action and says certain things, it is something that you can ask him but the Attorney General has not stated that he thinks you are guilty of this offense

and you are asking him did he send somebody to say you were not guilty.

Now, if you ask that question, it opens things fairly wide on redirect and I think that you had better discuss with your counsel before you ask that question.

(Mr. Doub) Withdraw the question.

(Mr. Johnson) I will merely say I understand Mr. Miller will be over here.

(The Court) All right.

(In open court.)

(Mr. Johnson) No further questions at this time. Thank you.

(The Court) You are withdrawing that question?

(Mr. Johnson) Yes, I will withdraw that last question.

(The Court) Mr. Williams?

(Mr. Williams) Your Honor, I have just a few questions.

CROSS EXAMINATION

By Mr. Williams:

Q. Do you have government exhibit 90 there, Mr. Attorney General?

(The Court) No, that—

(The Clerk) That is 108.

(Mr. Williams) Is it 108?

By Mr. Williams:

Q. I direct your attention to, first of all, the calls which are reflected on the second page of government exhibit 108 at the very bottom, Mr. Attorney General, calls dated Monday October 16, 1961 and Wednesday, October 18, 1961, and ask you if it is not a fact that those calls from Congressman Boykin related to the Hoffa matter about

which you told us during your direct examination? A. Yes, they related to the fact that Mr. Edlin had information implicating some other people in connection with the $100,000 bond, the stolen $100,000 bond.

Q. I believe that under examination earlier today you said that Mr. Boykin had communicated this information regarding Mr. Edlin's purported information about Mr. Hoffa and the bond prior to March 25? A. I believe he did. At least it was early in 1961 to my recollection.

Q. And that was at some function other than an official meeting at the Department of Justice? A. I am almost certain of that.

Q. And it was at that time that you instructed Mr. Walter Sheridan to follow through on this on this information and gather together such facts as he could regarding the relationship of Mr. Hoffa to the so-called Dranow treasury note or the $100,000 stolen bond, is not that correct? A. Yes.

Q. I am trying to put this in its proper chronological frame of reference, Mr. Attorney General. This was before March 25, 1961. A. Yes.

Q. Thereafter, and I again direct your attention to Government exhibit 108, and this time to an entry which my copy has inked in September 8, 1961, do you have that sir? A. I do.

Q. That reflects a call from the Attorney General of the United States to Mr. Boykin, does it not? A. Yes.

Q. That call, likewise was a call regarding the Hoffa episode, was it not? A. Well, again, when we call it the "Hoffa episode"—

Q. We will call it—

(Mr. Tydings) Let the witness answer.

By Mr. Williams:

Q. I will rephrase the question.

(The Court) Let him answer you. You asked a question.

(The Witness) Well, tied in with all of this was Mr. Edlin and the dismissal of the indictment or doing something in connection with Mr. Edlin.

I was told that Mr. Edlin had information that would be helpful in connection with another investigation which involved Mr. Hoffa and Mr. Dranow, so Congressman Boykin contacted me a number of times to try to make sure that we understood and realized that Mr. Edlin was being fully cooperative with the Federal Government and that he was going to give information that would be very helpful to us.

Now, I can not tell you what that call of September 8, 1961, I cannot tell you specifically what that was.

Congressman Johnson came to see me on September 7 at 12 o'clock noon and I do not know whether I was calling him the next day about—well, in any case it was in connection with Edlin and perhaps with the Hoffa note, or the $100,000 note, or maybe something else.

Q. I believe you testified under cross examination by Mr. Johnson, and if I misstate your testimony, correct me, that Mr. Boykin was much more active in relationship to Edlin's relationship to the grand jury proceeding involving the treasury note in Florida than Mr. Johnson. A. I do not remember. The only one I can remember that was interested in the matter was Congressman Boykin. I do not happen to remember Congressman Johnson mentioning that.

Congressman Boykin brought it up before. It is my recollection before he ever came to see me, and he brought it up a number of times at the end to make sure that we had obtained all the information that Mr. Edlin had and for that I was appreciative.

Q. One other thing on that subject, Mr. Attorney General, if you will look again at Government exhibit 108 which purports to be a record of visits and phone calls and

appointments, and I ask you to direct your attention to the bottom of the first page and an entry "Tuesday, August 29, 1961," an entry which reports that "Mr. Boykin called you two times on that day."

Do you see that, sir? A. Yes, I do.

Q. Then you look up above to the list of appointments and it appears that he came in to see you two days later on August 31, 1961. A. Yes, sir.

Q. Is it your recollection that that was in connection with Mr. Edlin's appearance before the grand jury in Florida involving the socalled "Hoffa-Dranow treasury note? A. It could be. If Congressman Boykin feels that it was, has a strong recollection, I would have to study that. It could very well be, Mr. Williams, reconstructing the events. It was about that time, which I have done from the records. It was about that time that Mr. Miller told Congressman Johnson that he was almost definite we were going to go ahead with the Edlin matter. That was the end of August, 1961 and so reconstructing it, myself, I thought it was in connection with the fact that a decision had been made by Mr. Miller to go ahead with this case and that Congressman Boykin came to see me and spoke very highly of Mr. Miller but thought that this case an error. Now, that is my best recollection on it. It is very possible that he might also have mentioned that Mr. Edlin had information in connection with this $100,000 bond. But my best recollection was it was in connection with a decision that had been made by Mr. Miller to go ahead with this case.

Q. Now, turning your attention to another subject, you testified as I understood your testimony this morning, very candidly that you did not have a recollection of Mr. Boykin stating to you that he had an interest in the tract of land in Waldorf City? A. That is correct.

Q. Which was one of the subjects discussed in the March 25, 1961 meeting? A. That is correct.

Q. And in response to a question by Mr. Johnson as I

understood your testimony again, you said that you do remember that the name of the land was Boykin City? A. That is correct.

Q. And you do not remember whether you were told that or whether that appeared on the charts and maps? A. I think that Congressman Boykin discussed it or it came out in discussion. I do not think I read it from the maps. It might have come out that first day in the discussions but I was clear in my mind that the name of at least part of this development was going to be "Boykin City."

Q. Now, Mr. Attorney General, I would like to hand you government exhibit 111 which has been received in evidence, Mrs. Zielinski, and government exhibit 122 which has been marked for identification here. I will give you a chance to look at these. One being a letter from Mr. Boykin to you. The other being another letter from Mr. Boykin to you which you identified here this morning on this date and direct your attention first of all to the first paragraph of government exhibit 111. Your response to it, and then if you would read the second paragraph, Mr. Attorney General, of page 4 of what has been marked for identification, I will then ask you a question. A. O.K. I might have to look at it again after your question.

Q. This is my question: Do they refresh your recollection that Mr. Boykin did disclose to you that he had an interest in the property in Waldorf? A. No, they do not refresh my recollection on that. These letters do not. The fact to the contrary, to be quite frank about it.

Do you want me to explain why?

(Mr. Tydings) Please.

By Mr. Williams:

Q. Will you explain.

(The Court) I think he should complete his answer.

(The Witness) I think we agree that the letter is slightly confusing. It says "we have a little place down on the

Patuxent River" which would indicate that he did have some ownership. "It is one of the beauty spots of the earth and in driving down yesterday one of my friends suggested that I look it up. Because it was a colored project that was being developed at Chesapeake Heights down on Chesapeake Bay.

"We drove down there and I am enclosing a brochure which was given me by Albert I. Cassell, a colored architect. This brochure gives all of the information," from that, the first sentence "we have a little place down on the Patuxent River," it would indicate he had the ownership and "driving down yesterday, one of my friends suggested I look it up," which would indicate he had not seen it before. Is there anything further in here?

Q. No, there is not.

I direct your attention to the paragraph on the middle of exhibit 111 which the government has not offered yet.

(The Court) I thought 111 was in.

(The Witness) It is 122. Can I read the paragraph?

By Mr. Williams:

Q. It is agreeable to me if he reads it.

(Mr. Tydings) I think the government would like to reserve the right to read government exhibit 122 in its entirety to the members of the jury.

(Mr. Williams) I have no objection to its being read in its entirety, Your Honor.

(Mr. Tydings) Then we have no objection.

(The Witness) May I read the paragraph?

(The Court) There is no use reading the whole thing.

(The Witness) "So you can see the facts. These people that Edlin was agent for, sold this property for over $10,000,000 more than they paid for it. Think of the great profit the people in these building and loan companies made

out of this alone. I know what I am talking about because Colonel Albert Ernest, one of my associates, sold this property to Charles Land Company and the Leisure Land Company for about $10 million and these two companies have now sold it to the Congressmen who were very outstanding in their profession of building and developments for $20,200,000. See what these wonderful stockholders in the building and loan companies have made and will make from the profit. These are the ones that they are objecting to. I do not know of anything or anybody that could make money any faster than that in such a short time." I do not know.

. It does not indicate that that he had personal interest there. He said one of his associates, Colonel Albert Ernest.

By Mr. Williams:

Q. You did not know their relationship? A. I didn't know what their relationship was. Can I answer further to make sure that, in fairness to Congressman Boykin. It was called "Boykin City" and I can not testify absolutely that he did not tell me that he had an interest or that he went into some of these matters. I just—again I just cannot say that. I can say that as I have said about Congressman Johnson, but I can not say unequivocally that although these letters, as I say, indicate to the contrary, I think—I mean, I would not be able to say that he did not mention that to me.

Q. You would not deny that he did disclose it? A. I do not have a recollection of it but I would not deny it in fairness to Congressman Boykin.

(Mr. Williams) That is all.

(The Court) Mr. Genn?

(Mr. Genn) No questions, Your Honor.

(The Court) Mr. Robinson?

(Mr. Robinson) No questions.

(The Court) Any redirect?

(Mr. Tydings) There is one possibility of confusion to the jury.

REDIRECT EXAMINATION

By Mr. Tydings:

Q. Attorney General Kennedy, if you refer to government exhibit 108 which I think you have in your hand and on the appointment list there for April 12, I believe it lists only Congressman Johnson. Now, what is your best recollection as to who was present at that meeting? A. I believe Congressman Johnson and Congressman Boykin. I think—

(Mr. Williams) I do have one more question, Your Honor, if I may. I neglected to ask the Attorney General if he had seen an exhibit which is marked Government exhibit 90 for identification. It has not been offered by the Government yet as I understand the record.

(Mr. Tydings) That is right.

By Mr. Williams:

Q. Had you seen that before, sir? A. I do not recollect having seen it before.

Q. Do you recognize the handwriting at the top "Herbert J. Miller;" you do not, or do you? A. I think it is Congressman Boykin. I do not think I saw it but I recognize that handwriting.

Q. Thank you, sir.

(The Court) Any further questions?

(Mr. Johnson) Just a minute.

(Mr. Tydings) If there are no further questions, I suggest that we allow the Attorney General to return.

(The Court) I gather that Mr. Johnson might have something on his mind. Mr. Doub, are you considering

further questions or not? I do not want to excuse the Attorney General—certainly I do not want to bring him back.

(Mr. Doub) Just a moment, Your Honor.

(Mr. Williams) Yes, Mr. Johnson has just called my attention to a letter which I would like to have identified at this time, Your Honor, while the Attorney General is here and we will offer it at the appropriate time. It is a thermofax copy but I think he can perhaps identify it. Mark it Boykin exhibit 9 for identification.

(The Court) Are you acquainted with it, Mr. Tydings?

(Mr. Tydings) I think I know the letter but I am not certain.

(The Clerk) Boykin exhibit 9 marked for identification.

(Defendant Boykin exhibit 9 marked for identification.)

(Mr. Williams) I am going to show you a letter Mr. Attorney General, marked defendant Boykin exhibit for identification No. 9 and ask you if that is a letter exclusive of the markings at the top of the page or a copy of the letter which you sent to Mr. Boykin?

(The Witness) Yes.

(Mr. Williams) Thank you.

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GOVERNMENT EXHIBIT NO. 86B

MEMORANDUM:

Over a period of months, negotiations have been underway dealing with the financing of a residential and commercial development, known as Boykin City, located in Southern Maryland, some 20 miles from Washington, D.C., by and through First Colony Savings and Loan Association, Inc., a Maryland corporation, organized in 1958, with its principal place of business in Prince Frederick, Maryland (Southern Maryland). The initial loan will be in excess of two million dollars and will provide housing, a country club, golf course, modern shipping center, streets, sewer and water system, and other improvements. In addition, the 8,000 acre tract will also include a commercial development, and interest has already been shown by certain corporations to locate their plants in that labor surplus area. At the present time, however, First Colony, together with certain individuals, are under indictment in the U. S. District Court of Maryland, and the constant danger of publicity in respect to the indictment and the certainty of news releases during any trial of this subject matter is of grave concern to all parties involved, especially as it affects the availability of funds for the Boykin City development.

Accordingly, a careful study has been made of the indictment, the complete file reviewed, and discussions held with various representatives of the Association. It would appear that the indictment, in question, may have been greatly motivated by the activities of one James W. Bridges who, apparently seeking vengence, conferred with U. S. Savings and Loan League officials, representing Colony's major competitors, and presumably with their advice and assistance contacted the Postal Department. As to the degree of pressure and influence brought by the League, it is difficult to ascertain, but in the normal course of events, if any of the advertisements of First Colony were in fact questionable, then a conference could have been held

between representatives of the Association and the Postal Department.

It is interesting to note that many of the activities, common to the industry, that might possibly be questionable do not appear with respect to this particular Association. In the examination, no loans, directly or indirectly, appeared to have been made to officers or directors of the Association, nor does there appear that any business is being done with insurance agencies or title companies owned or represented by officers or directors of the Association or members of their families. Annual audits have likewise been made by independent certified accountants, and from the statements resulting, the Association appears to be in splendid financial condition, capable of fulfilling its commitment to the Boykin City project.

In the general discussion of the Boykin City loan, request was made for a detailed memorandum of each and every paragraph of the indictment. With the consent of the Association, an additional copy has been secured, the same is herewith enclosed so that a better understanding may be had of the pending matter.

Dated: March 28, 1961

GOVERNMENT EXHIBIT NO. 86

Synopsis Colony Indictment

The indictment of First Colony and the individuals is based primarily upon a question of intent and sematics, or a question of definition, or the supposition as to what the general public might believe upon the reading of certain words or phrases. In great part the indictment is based upon a question of the meaning of the words "current rate" as applied to dividends—does it refer to a past dividend, a future dividend, an earned or anticipated dividend, and which of these definitions is applied by the public.

The question of whether or not "insurable" would generally be confused by the public to mean "insured" and, of course, was that the intent of the defendants. A construction of underwriting policies revolving around the word "conservative"—what constitutes a conservative loan; who may define a conservative loan; is a loan of 75% of the value of property a conservative loan; must it be a particular type of property; can a development loan for streets, sidewalks, water lines, be a conservative loan.

Is a reference to "mortgages on new homes" a misrepresentation when factually a commitment has been made for the construction of new homes, subject to mortgages running to the advertiser, if construction of the homes has not commenced although development of the ground improvements has begun?

Is an advertised policy of first mortgage loans violated by the existence of two second mortgages, representing less than 2% of the assets of the advertiser and given for public relations purposes or as repayment for favors done the association, a sufficient breach of a first mortgage loan advertised policy to constitute fraud? Is advertising not deemed sufficient by reprehensible for a cease and desist order, or a postal stop order, sufficient as the basis for an indictment charging an intent to defraud?

Can intent to defraud be established when there does not appear to be any scheme, plan, method or device by which those accused might reap the benefits of the alleged scheme to defraud?

The foregoing is in essence a summary of the type of indictment returned and of the charges alleged. A complete discussion, paragraph by paragraph, appears in the enclosed memorandum.

MEMORANDUM AND ANALYSIS OF FACTS, CHARGES AND DEFENSES IN THE MATTER OF UNITED STATES OF AMERICA VS. J. KENNETH EDLIN; JAMES W. BRIDGES; FIRST

COLONY SAVINGS AND LOAN ASSOCIATION, INC., A MARYLAND CORPORATION; ROSABELLE EDLIN; AND JACKSON D. RAINS.

Introduction

Prior to the analysis of the indictment together with the defenses or explanations of the allegations in the indictment, it must be understood that the indictment is one based solely upon an alleged *intent to defraud*, and there are no allegations of actual fraud set forth in the indictment nor is alleged that any investor has received a lesser return than that which was advertised and which was expected from his investment. It is believed that the actions of the defendants prior to indictment should certainly, to a great extent, be indicative of the question of intent by the defendants, and for that reason as a major factor bearing on the question of intent, we believe it to be important that the defendants made available to the United States Postal authorities and to the Grand Jury any and all documentary evidence sought by the Grand Jury or Postal Inspectors, and that the defendants readily made themselves available to the Grand Jury and did travel at their own expense substantial distances for the purpose of voluntarily appearing before and testifying before the Grand Jury and that during the investigation and the taking of testimony by the Grand Jury defendants, discussing documents not having been requested by the Grand Jury, voluntarily traveled long distances to acquire additional documents and return to again appear before the Grand Jury. Certainly, this spirit of cooperation is not indicative of any criminal intent or any belief by any defendant that he had committed any wrongful act, or certainly that he had intended to commit any wrongful act.

It should also be noted that this investigation and these charges were resultant from the activities of the United States Savings and Loan League together with a disgruntled employee, James W. Bridges. Bridges had been an associate of the defendant J. Kenneth Edlin, and a

primary party to all the activities of First Colony Savings and Loan Association, Inc. prior to his resignation and demand of substantial sums of money from J. Kenneth Edlin or First Colony Savings and Loan Association. When the demands of Bridges were refused he contacted the United States Savings and Loan League, exchanged correspondence with them, and further contacted various Governmental agencies including the United States Post Office Department, and by correspondence further threatened other officers of the association, advising them that he was making such charges and did, in fact, cause a number of them to resign from the fear of adverse publicity. It should also be noted that it will appear from the analysis of the indictment and charges appearing hereafter, that this man Bridges was primarily responsible for the language and advertisements complained of by the Grand Jury, and a study of the technical niceties of this indictment and the complete absence of any individual who has in fact been defrauded, or is even alleged to have been defrauded, and the absence of any method or means alleged or charged by which the defendants might divert to themselves the funds alleged to have been acquired with an intent to defraud, clearly demonstrates that this indictment has resulted primarily from the charges of a disgruntled, vengeful, ex-associate of certain of the defendants and from pressure brought by a league representing the major competitors of the defendant corporation.

As a further bearing on the question of intent, it should be remembered that the defendant Jackson D. Rains was an employee, with an excellent accounting background, obtained through an employment agency having no previous contact or relationship of any kind or nature with any of the other defendants, and as such began work for the sum of $125.00 a week which continued his salary until the death of another employee shortly before the indictment, at which time Mr. Rains was promoted and then drew a salary of $200.00 per week, but it is most important to note that Mr. Rains did not have any proprietory interest, direct or

indirect, in any of the associations or businesses involved, mentioned, or in any way concerned with the indictment or any of the activities complained of in the indictment.

The defendant Rosabelle Edlin served in the capacity of a stenographer, on call for unlimited hours; that she did serve as a member of the Board and Secretary of the corporation but that her total compensation was only $150.00 per week; and she, like Mr. Rains, had no proprietory interest, direct or indirect, in any of the firms or corporations mentioned or concerned with the activities covered by the indictment.

That the defendant J. Kenneth Edlin during the period covered by this indictment received no compensation, of any kind or nature, from First Colony Savings and Loan Association, Inc., he received no salary, no fees for services, and the only monies received by him were reimbursement of actual out-of-pocket expenses expended on behalf of and for the benefit of First Colony Savings and Loan Association, Inc.; and that Mr. Edlin had no proprietory interest in any of the firms or corporations having to do with any of the matters alleged in the indictment, and that the only reward he might anticipate for the time and energy expended by him during this organizational and initial period of business of First Colony Savings and Loan Association, Inc. would be such fees as he might be able to charge in the future for his services when the corporation was well established and financially strong, or the increased value of stock interests of members of his family in whose welfare he was, of course, greatly interested, and it must be noted that the stock held by members of his family would have no value until and unless each of the persons alleged in this indictment as persons whom it was intended to defraud, had first received their proper dividends as declared by the corporation, and their were sufficient assets or monies available to redeem at par the total investment of each and every the persons alleged as individuals whom it was intended to defraud.

Under these circumstances, it is respectfully suggested that if this, in fact, was a scheme devised with an intent to defraud, that it is probably unique in the annals of fraud in that the alleged perpetrators of this fraud could receive no reward nor remuneration for these activities until each and every of the persons whom it was alleged it was intended to defraud had, one, received their proper benefits; and two, received back their investment, and after the happening of these events then it was conceivable that other persons might benefit, and it becomes obvious that the only benefits could only arise and be distributed if, in fact, no one was defrauded, and on this basis the alleged intent to defraud seems to be patentedly an absurdity.

It should be further understood that the formation of First Colony Savings and Loan Association was not in fact the original plan or scheme of any of the defendants to this cause, but rather its formation was almost accidental or coincidental. Mr. Edlin, one of the defendants, who together with Mr. Bridges, another defendant, was active in First Continental Mortgage Corporation, a Florida corporation engaging in very profitable mortgage operations, had been contacted by an acquaintance of his in Washington, D.C., with whom he had previously done business, in regard to the possibility of First Continental Mortgage Corporation financing retirement villages in Maryland, and did travel to Washington for the purpose of discussing such financing and inspecting sites for such villages. During a conference in Maryland and seeking to ascertain the competition in the area of Calvert County, particularly having in mind at that time Dares Beach, being developed somewhat as a resort area, Mr. Edlin inquired as to the availability of financing from savings and loan associations and was advised by attorneys and residents of that area meeting with him that the area was completely unserviced by any savings and loan association, and it was then suggested by these persons that Mr. Edlin form, or gather a group to form, a savings and loan association for that area. He advised that his understanding was that the

formation of such a company took a substantial period of time which he did not feel that he could devote, and was immediately advised that under the Maryland statutes this was not the case, and that if he were willing and if his associates were willing a charter would be readily obtained and would in fact be processed for him by the local residents. Mr. Edlin then conferred by phone with Mr. Bridges, advising him of the information he had received from these Maryland residents. Mr. Bridges was most enthusiastic and Mr. Edlin then authorized the individuals to proceed with the formation of an association, at which time First Colony Savings and Loan Association, Inc. was formed.

Indictment Paragraphs 1 Through 4

(No Paragraph Numbered 5)

Paragraphs 1 through 4 of the indictment are the introductory paragraphs of the indictment, identifying the individuals and corporations alleged parties to or concerned with the matters of the indictment, and further sets forth the organization and incorporation of First Colony Savings and Loan Association, Inc., the alleged vehicle of the intent to defraud, with particular emphasis upon the creation in the By-Laws of two classes of stock, Class "B" stock to constitute the controlling capital stock of the corporation and Class "A" stock identified as the shares of stock to be sold and distributed to the persons whom it was allegedly intended to defraud, and further allegations as to the election of officers and board members of First Colony and general allegations of an intention to disseminate, publish and distribute misleading advertising.

The fallancy of the Government's contention that the capital structure of the corporation was devised as a method or means of carrying out an alleged scheme to defraud, and was created with an intent to defraud, is quickly answered, by an analysis of the capital structure and the rights and the privileges of the two classes of stock granted by

their charter. This analysis quickly discloses that rather than creating a vehicle of fraud, the very structure complained of acted as a guarantee and a protection for those persons who it is alleged the defendants intended to defraud.

Description of Each Class of Stock with Preferences, Voting Powers, Restrictions, and Qualifications Thereof

Under the Amended Articles of Incorporation, shares of Class "A" stock are known as "Savings Account Shares". The owners of Class "A" stock are entitled to one vote for each one, and *not one vote for each share of Class "A" stock owned;* with the proviso, however, that if two consecutive quarterly dividends payable upon Class "A" stock shall be passed or omitted, then the owners of Class "A" stock are entitled to one vote per share of the Class "A" stock owned by them, until two consecutive quarterly dividends have been paid, at which time the owners of Class "A" stock shall again be entitled to only one vote for each owner.

Owners of Class "A" stock are entitled to be paid a quarterly dividend, as the Board of Directors may declare, which is payable on the first days of January, April, July and October. In addition thereto, such owners are entitled to be paid such "supplemental dividends" from the earnings of the corporation as the Board of Directors in their discretion may declare from time to time.

In the event of dissolution, the owners of Class "A" stock shall receive the par value of their stock, plus accrued dividends, before any distribution shall be made to the owners of Class "B" stock.

Under the Amended Articles, Class "A" stock is redeemable at the price of $1.00 per share, plus accrued dividends, at any time the Board of Directors, in their sole discretion, may determine, upon the following terms: The

Corporation shall purchase and redeem any or all shares of Class "A" stock at the price of $1.00 per share, plus accrued dividends, upon the request of any owner, and upon tender of the passbook, certificates, or other necessary instruments.

Class "B" Stock

Shares of Class "B" stock are known and described in the Amended Articles as "Life Savings Account Shares". The owners of Class "B" stock are entitled to vote on the basis of the number of shares owned by each stockholder, with one vote for each share of stock owned.

Owners of Class "B" stock are entitled to be paid quarterly dividends as the Board of Directors may declare, and such dividends are payable on the first days of January, April, July and October, provided the total amount of such dividends shall not exceed the total amount of dividends paid to owners of Class "A" stock for the same quarterly period.

In the event of dissolution, and after owners of Class "A" stock have been paid the par value of their stock, plus accrued dividends, the owners of Class "B" stock shall be entitled to receive all remaining assets of the corporation.

Class "B" stock is subject to redemption upon the following terms:

The Board of Directors, in their discretion, may call and redeem outstanding shares of Class "B" stock on a pro-rata basis, apportioned among all the owners of such stock, at par value or book value of such shares, whichever value is greater, plus accrued dividends, provided that not more than a total of 25% of the outstanding Class "B" stock shall be called and redeemed upon the foregoing terms in any fiscal year.

Discussion

Certainly, the provisions as above set forth providing for and requiring the redemption at par of the Class "A" stock, together with accumulated dividends, as a pre-requisite to any withdrawal by the Class "B" shareholders, was a built-in prohibition preventing the owners of this "B" stock from withdrawing, syphoning off, or raiding the assets, capital or surplus of First Colony without first making adequate and profitable provision for the investors in Class "A" stock, being those persons identified by the indictment as those intended to be defrauded, and that the success of this venture was an absolute necessity before any profits could be realized by the owners of the Class "B" stock complained of in the indictment. And it might further be noted that no dividends have ever paid to the owners of Class "B" stock, although upon occasions such dividends have been declared and in turn waived by the owners of Class "B" stock.

Reference in the indictment to the election of officers and directors is facetious, to say the least, in that basically it seems to complain that the controlling stockholder sought to elect persons to the Board in which that stockholder had confidence. If this be an element of fraud, most assuredly the major stockholders in many corporations are likewise guilty. The indictment also carefully avoids the mention of the election to the Board of various individuals, including attorneys, residing in, maintaining offices in, and well respected in the District of Columbia.

INDICTMENT PARAGRAPH 6

Paragraph 6 constitutes solely general unsupported allegations, more particularly set forth and alleged with reference to exhibits in subsequent paragraphs, and this paragraph for that reason requires no discussion.

INDICTMENT PARAGRAPH 7

Paragraph 7 sets forth the enactment of a corporate resolution declaring a dividend for the first quarter of 1958 at the rate of 5% per annum, and alleges this as fraudulent or misleading on the grounds that there was no earned income, and that no dividend would in fact be paid for the first quarter of 1958, and that there would be no current rate of dividend when advertising commenced.

Discussion

Class "B" shares of stock of First Colony were purchased by First Continental Mortgage Corporation at a premium of 25 per cent, creating a paid-in surplus rather than earnings. At the time of the declaration of the dividend, this dividend was declared from paid-in but admittedly not earned surplus. There was at that time only one stockholder, which stockholder had full knowledge of all of the activities and of the complete financial condition of First Colony. There was not then, nor is there now, any accepted or established definition of the term "current dividend." It is suggested by some that this means the last dividend paid; others state it is the last dividend paid from earnings; and still others contend that the word "current dividend" refers to the dividend intended and expected to be paid for the quarter or dividend period following the advertisement. Certainly, no stockholder was deceived. This author (an attorney) was present when subsequent to the declaration of the dividend, First Continental Mortgage Corporation, through its officers, and because of its interest in the future of First Colony and its desire to see the growth of that association, voluntarily decided to waive the receipt of this dividend, and can state of his own knowledge that this waiver had not been discussed nor considered at the time the dividend was declared; that the decision was based upon the desire to improve and strengthen First Colony and not with any intention to deceive or mislead. The absence of any recognized definition to support the Government's

contention on the use of the phrase "current rate" is without question. No such definition may be found in any recognized authority. Exhaustive research has been made of commercial dictionaries, legal dictionaries, and legal works defining both words and phrases. No such definition can be found. In court proceedings, expert witnesses have testified to utter confusion as to the actual meaning of this phrase.

INDICTMENT PARAGRAPH 8

Paragraph 8, with sub-Paragraphs a, b, c and d, describes a newspaper ad in the *Miami Beach* (*Florida*) *Sun, The Miami Herald, The Miami Sunday News,* a radio broadcast of Station WKAT of Miami Beach, and a letter alleged to be mailed by First Colony, and a brochure; copies of the newspaper advertisement, letter and brochure being attached respectively as Exhibits "A", "B" and "C" of the indictment, each of which is alleged to be misleading by reason of its reference to a "5% per annum current dividend". Paragraph d further charges misrepresentation, complaining of the phrase "select first mortgages", "mortgages must qualify for insurance of both principal and interest by an independent corporate insurance com[illegible]y".

Discussion

Insofar as the advertisements complained of make reference to the use of the phrase "5% per annum current dividend" as being misleading, the prior discussion of this term should suffice, and we can only again emphasize that there is no standard recognized definition for this term and it is respectfully submitted that there is no basis or reason to believe or presume that the general public has any specified interpretation of such phrase; or in what manner, if any, they might be misled by its use; or in what manner, if any, any of the defendants to this cause might have intended to mislead. Most assuredly, anyone reading this advertisement would presume that they were to receive

a 5% dividend upon their investment in First Colony, and it is not alleged or charged that they did not receive such a dividend, and it may be unequivocably stated that each and every Class "A" stock investor (those whom it is alleged was intended to defraud) have in fact never received dividends of less than 5% upon their investment.

The other features objected to in Paragraph d of Paragraph 8 of the indictment are reiterated and set forth in future sections of this indictment, and for the sake of clarity and conciseness will be dealt with in the subsequent portions of the indictment where these allegations are more lengthy and more precise.

Indictment Paragraph 9

Paragraph 9 alleges and charges that the defendants advertised contrary to the advice of counsel, and continued advertisements notwithstanding opinions of counsel that such advertisements were misleading.

Discussion

Paragraph 9 of the indictment is without any foundation in fact. At no time did First Colony ever receive any opinion from any counsel advising them that their advertisement was misleading or fraudulent, or would in fact deceive the public.

The Government had apparently based this paragraph on a letter received from one of the association's Maryland counsels, who stated in reference to a particular ad that he thought possibly that this particular ad might be misunderstood by some person or persons reading the ad. The opinion did not state that it was in fact misleading, that it would mislead the general public, but rather, as stated, that it might possibly mislead some person reading the advertisement.

It is respectfully submitted that the drafting of advertising so that no person reading it might possibly misin-

terpret would be an onerous burden, which would soon eliminate from our economy those engaged in the advertising field. An advertisement in essence must be drafted to meet the general public and cannot be drafted for general distribution to try and reach the exception, or that few that might misconstrue or misinterpret. Certainly, with the confusion of the American language, the double meanings of many words, almost anything written may possibly be misunderstood by someone someplace. Their understanding may well be reached by what they wish to understand, by their educational level, by colloquialisms of their particular community, and national advertising is obviously generally devoted to the use of terms generally accepted or used in the industry being advertised, and we respectfully submit that the words "current dividend" are generally accepted as an expression of the remuneration to be received by those investing in an association at the time of that advertisement. Surely the general public does not construe such an advertisement as meaning, "This is what the association paid last time, and if you're lucky they may pay it again." It is the opinion of your author, and it was the opinion of the defendants in this cause, that the phrase "current dividend" referred to the dividend that would be paid and that the investors might rightly expect to be paid, and certainly the phrase did represent the dividend that was paid and received by the investors reading the advertisements complained of.

Indictment Paragraph 10

Paragraph 10 of the indictment deals again with the payment of dividends and the use of the phrase "current dividend", and deals specifically with the second dividend declared and advertised by First Colony, and alleges that a specific transaction having to go with the purchase by First Continental Mortgage to and for the account of First Colony, of a first mortgage on property in Broward County, Florida, and thereafter sold by First Continental Mortgage for the account

of First Colony at a profit of approximately $3,900.00, said profit arising from the fact that the mortgage was purchased at a substantial discount and sold to an individual investor at par, which investor was not interested in, had no proprietory interest or interest as an employee or otherwise with either First Continental Mortgage Corporation or First Colony. It is contended by the Government that this transaction was entered into solely for the purpose of acquiring income so that a dividend might be advertised and paid, and further makes reference to accounting practices more fully dealt with subsequently in the indictment. We will deal here only with the propriety of the transaction of the purchase and sale of the mortgage and the profit therefrom.

Discussion

The basic objection in this paragraph 10 of the indictment again revolves around the use of the word "current dividend" and the attempt to give some explicit definition to that term, and from this standpoint has been previously and we believe adequately discussed.

At the time complained of, First Continental Mortgage Corporation was the major stockholder in First Colony Savings and Loan Association, Inc., and was, of course, of necessity vitally interested in the welfare and future of First Colony. First Continental at that time had been purchasing with regularity mortgages in a subdivision in Broward County, Florida, and at this particular time First Colony had acquired a small number of investors in the Class "A" stock (those persons whom it is alleged there was an intent to defraud), and First Colony had a small sum with which to commence its investments. It had been the intention of First Continental Mortgage Corporation that if Colony grew fast enough and had sufficient sums to invest, to waive its right to future investments in this Broward County project and allow the very lucrative investments to be made and entered into by First Colony,

but as time passed the association had grown somewhat slower than anticipated and at the time complained of had, as previously stated, only a small amount to invest. At this time there was available for purchase one of the mortgages in this subdivision, and First Continental Mortgage Corporation did then offer to purchase said mortgage for and at the account of First Colony Savings and Loan Association and further to without charge sell to and for the account of First Colony said mortgage. First Continental then purchased a mortgage on certain improved real estate being a residential building, and generally known as the Freel mortgage, at and for the sum of $5,000.00, which mortgage was subsequently for the account of Colony sold to one Edward King, a resident of the State of Florida, for the sum of $8,920.21, making a net profit by the sale of the mortgage of $3,920.21, which sum was pursuant to the agreement between Continental and First Colony, deposited to and became profits of First Colony Savings and Loan Association. The Government contends, rather unrealistically, that this was a false and fraudulent transaction because it was entered into for the benefit of First Colony and allegedly for the purpose of establishing an account from which dividends might be paid. Most assuredly, this is the very reason for which any savings and loan association either loans money or purchases a mortgage; namely, to get profits from which to pay dividends to its investors, and the day that it fails to pay dividends to its investors is in all probability its last day of existence. Surely, this intent to make money to carry out your corporate obligations is hardly evidence of fraud.

The Government cannot contend that this was a transaction falsely created in order to have profits. As previously stated, the investor or purchaser of this mortgage had no relation or obligation to any of the corporations or individuals involved, and further this was merely one of a series of mortgages purchased and sold in a like manner for First Continental, and apparently the criticism seems to lie in the fact that Continental, as a major stockholder

in First Colony and with the interests of First Colony as prime concern, saw fit to waive its right to enter into an advantageous transaction and allowed First Colony to enter into the transaction instead. It would seem better that the parties concerned with First Continental Mortgage Corporation should be acclaimed and credited with their good will and their willingness to forego a profitable transaction so that this young growing corporation might receive the benefits of this transaction, and in turn pass them along to their many investors, excluding from those rewarded by this transaction First Continental Mortgage Corporation, as its major stockholder and those who might benefit by the growth of First Continental Mortgage Corporation.

This Paragraph 10 further makes reference to alleged expenses in excess of the profit of $3,920.21, which question of expenses is subsequently dealt within this indictment, in an attempt to discredit certain recognized accounting practices indulged in by First Colony Savings and Loan Association and will, of course, be dealt with in the review of that portion of the indictment.

Obviously, the charge that there were no profits or earnings in First Colony at the time of the payment of this dividend is erroneous and apparently results from a misunderstanding of the facts by the Government, and the only question properly raised and not present in this paragraph would be accounting practices, which will, of course, be dealth with where they arise in the indictment.

Indictment Paragraph 11

Paragraph 11 is a mere allegation, again complaining of dividends allegedly not from earned surplus (disregarding the profits of the Freel mortgage), and again attempting to create this unexplained and unsubstantiated definition of "current dividend." The general nature of the allegations of this Paragraph 11 requires no further discussion.

INDICTMENT PARAGRAPH 12

Paragraph 12 of the indictment consists of general introductory language and Paragraphs a, b, and c, each of which paragraphs deals particularly with newspaper advertisements, and a Paragraph d referring to a brochure which was mailed and distributed by First Colony. Paragraph a of 12 is a newspaper advertisement, again advertising 5%, and further makes reference to a policy of insuring mortgages, of careful selection of mortgages, or relentless shopping of mortgage markets. The advertisement in Paragraph b merely again represented the 5% current dividend, and Paragraph c describes a newspaper ad, again complaining only of the representation of a "5% per annum current quarterly dividend", and the brochure described in Paragraph d was in essence a longer version of the newspaper ad complained of in Paragraph a.

Discussion

We discuss these paragraphs somewhat out of order for the sake of brevity, and Paragraphs b and c being merely a furtherance of the Government's contention in regard to the phrase "current dividend" have been previously, and we believe adequately, discussed.

The Paragraph a, while again complaining of the phrase "5% current dividend", further challenged the use of the words "insured mortgages", "shopping mortgage markets", and the "careful selection of mortgages".

The personnel of First Colony had arranged and had entered into a contract of insurance with Mortgage Guarantee Insurance Company of Milwaukee, Wisconsin, whereby that insurance company had committed itself to insure all of the mortgages of First Colony (Exhibit "B", attached hereto and made a part hereof). The advertisement was quite properly entered into on the belief and intention of all parties that their mortgages would in fact be insured pursuant to the commitment of insurance executed to First

Colony, and it might be noted that said insurance company is today in business and is insuring the mortgages of some 900 institutions, all of which are either Federally chartered or insured by the Federal Savings and Loan Insurance Corporation, this policy having been adopted subsequent to the issuance of a commitment to First Colony and after a majority interest in said corporation had been acquired by a group of ex-officers and directors of various Federal savings and loan associations and members of the Savings and Loan League.

The reference to the "shopping of mortgage markets" and "careful selection of mortgages" is a true and accurate and to say the least, a conservative, representation of the activities of First Colony, its officers, employees, attorneys and underwriters. First Colony had entertained mortgages and development loans from Florida, Maryland, the District of Columbia, and Illinois; they had carefully examined many such applications, and had religiously rejected many of these applications as not being sound or adequate security for the investment of the association's stockholders' funds. The careful, slow consideration by the personnel of First Colony is adequate evidence of their conservative, careful, and cautious attitude. Certainly, we always realize there is not a shortage of borrowers, although there may be a shortage of qualified borrowers with adequate security, and the careful consideration by Colony of these applications and the extensive areas covered is certainly concrete evidence that they did shop mortgage markets relentlessly, and that their policy was to carefully select their mortgages. The Government's main complaint as to the advertisement described in Paragraph a seems to be the hesitancy or delay exercised by this personnel, and their failure to rush in rapidly and to indiscriminately enter into mortgages. They complain that they advertised their policy of how they would operate when they did not in fact have mortgages. Would it have been better if they had indiscriminately entered into mortgages without this careful selection, and would that not have been

fraudulent, rather than the careful care and the careful selection being exercised by the personnel of First Colony.

INDICTMENT PARAGRAPH 13

Paragraph 13 merely recites issuance of Class "B" stock as overt act; requires no discussion.

INDICTMENT PARAGRAPH 14

Paragraph 14 of the indictment treats the profits from the Freel mortgage as a donation, denying same as income, and attacks the accounting of First Colony contending that the accounting practices of capitalizing operating expenses constituted a fraudulent practice, and falsely and fraudulently conveyed a misleading picture of First Colony's financial structure, and charges this alleged false accounting as the decision of the defendants Edlin and Bridges aided and abetted by the defendant Rains, and alleges this practice to have been abandoned in December 1958.

Discussion

As previously mentioned, the defendant Jackson Rains was a paid employee hired through an employment agency, and not previously acquainted with any of the other defendants or companies involved in this indictment. At the time of the employment of Mr. Rains, First Colony had no auditor and its records were being maintained by a bookkeeper. One of Mr. Rains' first assignments was to set up the books and records accounting-wise of First Colony. After analyzing these records Mr. Rains advised that in his opinion the proper accounting practice to be used by First Colony would be to capitalize the organizational expenses of the corporation, representing that this was generally done when corporations first opened for business on the theory that necessarily high expenses of first introducing a corporation into business were a necessary asset of the corporation, and were generally the very

basis from which it produced future income and business. During this period of time, at the request of one of the directors of Colony—an attorney practicing and residing in the District of Columbia—a Washington accountant picked by this Washington director was called in to vertify the auditing practices of Colony, and the only change recommended by him of Mr. Rains' accounting procedures was to divide this item into organizational and *pre-opening* expenses.

Mr. Rains had advised Bridges and Edlin that these were the accounting procedures that he recommended, and was then instructed that he was in charge of accounting and that if that was the proper method to be used, that he was to prepare the books and records of Colony in that manner, which he subsequently did with the confirmation and assistance of the Washington accounting firm. It might also be noted that subsequent to this time the association voluntarily employed an independent Certified Public Accountant to audit the books and records of First Colony, which audit was in fact made and a certified statement published by this accounting firm, and we would like to further comment that the voluntary auditing by an independent public accountant of the books and records of a corporation to be used as the vehicle for a fraudulent scheme would certainly be most unusual, and the very employment of these accountants strongly, unequivocably and overwhelmingly rebuts the Government's contention that the activities of these individual defendants were in furtherance of a scheme to defraud.

The indictment comments that the capitalization of these organizational and pre-opening expenses was subsequently changed in December of 1958, and a study of the activities of First Colony quickly discloses that this accounting procedure was changed for good and sound cause.

In the latter months of 1958, First Colony made substantial sums of money constituting income, and it became apparent to Mr. Rains that First Colony's income had reached

a sum which would exceed the exemptions provided and would require the payment of income taxes if these organizational and pre-opening expenses were capitalized. First Colony, having not yet filed its first tax return, was still free under the applicaable laws and regulations to make a final choice of either capitalizing their organizational and pre-opening expenses or carrying them as a current expense. In order to avoid unnecessary taxation, thereby reducing the monies available as profits to the investors in Class "A" stock (those parties alleged as intended to be defrauded), Mr. Rains at that time, with the approval of the responsible officers of First Colony, decided to carry these expenses as current expenses and cause them to be paid, thereby eliminating any tax charges against First Colony and its profits. It might further be noted that had Mr. Rains not changed his accounting procedures at this time First Colony could have been required to make certain tax payments, but on the other hand, had the intention been to create a puffed statement and to falsely encourage investors to invest in First Colony, the continued capitalization would have provided a statement with even greater surplus and reserves, and certainly had the intention of the parties been to defraud and to mislead, the payment of taxes would hardly have deterred them from presenting a puffed and enlarged statement. A further and more complete discussion of these accounting practices and procedures is set forth in Exhibit "C" attached to and made a part of this memorandum.

Indictment Paragraph 15

Paragraph 15 refers to the resolution by the Board of First Colony declaring a dividend for the third quarter of 1958 at the annual rate of 5%, again alleging and contending there were no earning and no earned surplus which constituted the third quarterly dividend paid by First Colony.

Discussion

This paragraph again ignores the profits of the Freel transaction, presumes the accounting procedures of Mr. Rains to be improper and fraudulent, notwithstanding the recognized authorities supporting said accounting procedures (Exhibit "C"), the again basically falls into the "current rate" category, and we again refer you to our Exhibit "C" to this memorandum and previous discussions of "current rate".

INDICTMENT PARAGRAPH 16

Paragraph 16 complains of the issuance of a dividend notice for the third quarter (September 1958) containing the phrase "an excellent third quarter".

Discussion

The Government states and represents that it was intended to convey by the phrase "an excellent third quarter" unusual or excessive earnings for that period, and to further convey that dividends were paid from such earnings. It does not, however, appear that there was any such statement in the advertisement, and in fact there was none. It is contended by the employee preparing advertisements for First Colony during the period in which this advertisement was prepared, that the phrase "an excellent third quarter" was intended to convey, and that it had been his thought that it would convey, a tremendous growth in First Colony, and to substantiate his interpretation points out that during the third quarter the total resources of First Colony increased by approximately 500% and that he deemed this to in fact be an excellent third quarter, and it does not seem to be unreasonable that one preparing advertising and knowing that the association he represented had increased in size by approximately 500% in a single quarter, might well consider that there had in fact been an excellent third quarter and so state in an advertisement.

INDICTMENT PARAGRAPH 17

At this point the Government announces the abandonment of the alleged scheme by the defendant James W. Bridges.

Discussion

We again call attention to the fact that it was also at this time that Mr. Bridges commenced demanding the payment to him of substantial sums of money, threatening to go to various Governmental authorities and the United States Savings and Loan League if these sums were not paid, and the time at which he did in fact write to various members of the Board and directors of First Colony advising them that he was going to these various Governmental agencies, and did also exchange correspondence with members of the United States Savings and Loan League and did subsequently make charges against First Colony and other personnel, and it further appears that the indictment is based essentially upon the wild and vindictive charges of Mr. Bridges, notwithstanding the fact that he seems to have been burned by his own torch.

INDICTMENT PARAGRAPH 18

Paragraph 18 alleges the entering into by Colony of a $7,500.00 second mortgage to one Mr. W. Dorsey Gray of Prince Frederick, Maryland, claiming that this mortgage, being a second mortgage, was contrary to the advertised lending policies of First Colony, and that this second mortgage rendered the advertisements false and misleading.

Discussion

The $7,500.00 loan to Mr. W. Dorsey Gray was qualified and was within the over-all advertising of First Colony, which advertising at all times had been that the mortgage loans of First Colony were limited to 75% of the appraised value of the mortgaged premises, and that the Dorsey Gray

loan of First Colony, combined with the first mortgage upon this property, did not exceed 75% of the appraised value of the property, and was secured by further additional valuable security. Further, said mortgage has at all times been in good standing, all payments have been promptly met, and there can be no basis for any true objection to the underwriting policy in entering into the Dorsey Gray loan. The Gray loan further served First Colony in public relations since Mr. Dorsey Gray had an excellent credit rating and was a member of a very prominent family in Prince Frederick, Maryland, the home of First Colony, and it was believed that the fact that he was doing business with First Colony would be of incalculable value to the association and would create more good will than could be created by thousands of dollars of paid advertising.

Indictment Paragraph 19

Paragraph 19 consists of an introductory paragraph alleging generally continued advertising represented as misleading and false, and further consists of Paragraph a, b, c, and d. Paragraph a complains of an additional mailing of the "excellent third quarter" brochure discussed under Paragraph 16. Paragraph b complains of further publication of a previously discussed newspaper ad, the objection again being related to the "current dividend rate" theory of the Government already fully discussed under prior paragraphs of the indictment. Paragraph c complains of further newspaper advertisement described as substantially the same as in Paragraph b of this Paragraph 20, and the complaint again being based upon the "current dividend rate" theory. Paragraph d complains of a further mailing of the brochure, previously discussed under Paragraph 12d of the indictment.

Paragraph 19 and sub-paragraphs a, b, c, and d raise no new matters in the indictment, and all having been previously discussed are given no further consideration here.

INDICTMENT PARAGRAPH 20

Paragraph 20 complains of an additional second mortgage entered into in November of 1958 to Howard and Eileen Koven of Chicago, Illinois, of approximately $11,000.00 with monthly amortization, claiming said mortgage to be a misrepresentation by reason of prior advertisements of a first mortgage investment policy.

Discussion

The loan by the association to Mr. Howard Koven was in compliance with the advertised policy of First Colony that their mortgages would not exceed 75% of the appraised value of the mortgaged premises. The combined first Mortgage and the second mortgage of First Colony did not exceed 75% of the appraised value of the property, and this is further evidenced by the fact that subsequent to the indictment this second mortgage was paid in full and in advance by reason of re-financing where from a conservative Illinois mortgage house a first mortgage was obtained in an amount sufficient to retire both the existing first and second mortgage. Availability of this loan came to the attention of Colony because Howard Koven was the son of one Henry Koven, an attorney in Chicago, Illinois, who had rendered a great deal of assistance of First Colony and taken a great interest in its future, and who had been most considerate in his billings by reason of the youth of this association.

INDICTMENT PARAGRAPH 21

Paragraph 21 attacks the first mortgage loan by First Colony to A. I. Cassell in the sum of approximately $403,000.00, together with a commitment for construction loans for the construction of approximately 75 houses in the total sum of approximately $500,000.00 (which commitment is mentioned in the indictment, but the amount of which mortgage commitment is carefully omitted from the indictment), making the total funds

committed by First Colony for development of the real estate tract and the building of houses in a sum of approximately $900,000.00, for which sum the A. I. Cassell Land Corporation, from withdrawals from the mortgage, paid to First Colony in the prepayments of interest, and as commissions on the total loan of $900,000.00, the sum of approximately $300,000.00, and it is represented that this loan, by reason of the fact that it contemplated first the development of land, did not constitute a loan for houses and therefore constituted a violation of First Colony's advertised mortgage policies, and as such caused their advertising to be misleading and fraudulent.

Discussion

The Government in its allegations in Paragraph 21 also challenged the adequacy of the appraisals, stating them to be less than $250,000.00. In the interests of saving space, we refer to the appraisal discussion by Jackson D. Rains in Exhibit "C", attached hereto and made a part hereof, and call to the attention that the appraisals referred to by him are in the amount of approximately $500,000.00 rather than $250,000.00 mentioned in the indictment.

The Government further mentions in passing the commitment for the construction of houses, but carefully avoids the amount of this commitment, which amount was approximately $500,000.00, in an attempt to create the impression of a $300,000.00 charge on a $400,000.00 loan, when in fact the total charges of prepaid interest, commissions, costs, attorney's fees, was on the total sum of $900,000.00, which represented a loan for a substantial period of time with interest pre-paid for a full year, in order to allow the borrower sufficient time to develop his tract and produce income prior to having payments fall due. Certainly, there is a considerably different picture established when the entire amount of the committed loan of $900,000.00 is considered, than when there is considered the $400,000.00 loan

mentioned by the Government in what obviously is a misconstruction of the true facts. The Government further infers that the pre-payment of commissions was in some way or other a deceptive practice, although they do not see fit to allege or charge that it is unique, unusual, or not a practice generally followed in the savings and loan industry, and it is well that they did not for in fact the common practice in the savings and loan industry and in the banking industry is and has been to credit premiums and commissions as income earned at the inception of the loan.

It is perfectly obvious that where a raw piece of land is to be developed into a housing sub-division, that the installation of roads, water, etc., is a necessity and a prerequisite to the construction of houses, and in fact under the laws of Maryland the availability of these facilities, approved by the Health Department, is a necessary prerequisite to the recording of a plat, and it certainly seems somewhat facetious and unreasonable to take the position that since a sub-division development loan was divided into two separate loans, one for the ground development and another for the construction of houses and the initial disbursements for the development of the land, that this should be deemed a misrepresentation or a departure from the advertised policies of First Colony, is rather hard to accept. Would the mere fact of combining these two loans into one loan, so that the loan under which the disbursements came was both a housing and development loan, have changed the picture? Certainly not from a practical standpoint, although it might have made a technical difference. The drafting of this Paragraph 21 and particularly the omissions from that paragraph and the halftruths therein set forth, create grave suspicions as to the propriety of the indictment and the purposes of the indictment, and call again to our attention that this indictment resulted from the accusations and charges of an ex-associate demanding money of the association, working in close contact with the United States Savings and Loan League representing all of the major competitors of this indicted association.

For a further discussion of the progress and success of the Cassell loan and a District Court decision on the de minimis nature of the Government's complaint in regard to the two second mortgages previously mentioned, we refer you to Exhibits "D" and "E" hereto attached and made a part hereof, Exhibit "D" being a copy of the decree of the District Court for the Southern District of Florida, and Exhibit "E" being the analysis of the progress and success of the A. I. Cassell loan.

INDICTMENT, PARAGRAPH 22

This paragraph complains solely of the election of Jackson D. Rains to the Board of Directors of First Colony and his appointment as a member of First Colony's loan committee, and alleges his acceptance being for the purpose of aiding and abetting the scheme, and general allegations of this nature hardly require discussion or explanation.

INDICTMENT PARAGRAPH 23

This paragraph consists solely of general allegations charging approval by Rains, as a member of the loan committee, of the loans described in Paragraphs 18, 20 and 21 of the indictment as being acts aiding and abetting the alleged scheme to defraud, and again, being wholly general and technical in nature, require no answer.

INDICTMENT PARAGRAPH 24

Paragraph 24 again is wholly technical in nature, charging that approval by Rains and Rosabelle Edlin, as members of Colony's Board of Directors, of the loans described in Paragraphs 18, 20 and 21, constituted acts aiding and abetting the alleged scheme to defraud, and requires no discussion.

INDICTMENT PARAGRAPH 25

Paragraph 25 refers to the mailing of a dividend notice referring to "especially profitable operations during 1958" alleged to be fraudulent in that it did not

disclose or represent that the profits resulted from transactions alleged by the Government to be contrary to the advertised policies of First Colony.

Discussion

This section of the indictment objects to an ad stating that First Colony had "especially profitable operations during 1958," and appeared subsequent to the receipt of the profitable commissions and pre-paid interests in the Cassell loan, which profits were in the sum of approximately $300,000.00 and which placed Colony in a position of showing a favorable surplus as well as reserves, notwithstanding that in order to avoid unnecessary taxation Mr. Rains had deducted the previously capitalized organizational and pre-opening expenses as an expense, and apparently the objection is founded upon the Government's contention that the development loan portion of this $900,000.00 loan was contrary to Colony's advertised policies.

Even had the Cassell loan been a departure from these advertised policies (which we do not believe it was), this still could not in and of itself constitute fraud. The taking of such a position would of necessity require that the operators of any corporation publicly advertised, who might find themselves suddenly faced with an extremely attractive and profitable business transaction from which they might reap substantial profits for their investors, would be barred from engaging in this transaction in order to avoid indictment for fraud or intent to defraud. Surely, it is not the law that a profitable transaction may not be entered into unless you have first advertised that a transaction of that nature shall be your policy.

INDICTMENT PARAGRAPH 26

Paragraph 26 objects to an ad which contained the phrase "First Colony Savings mortgage portfolio is insurable," contending that the ad was designed to mislead readers to believe that the mortgage portfolio was insured.

Discussion

The advertisement complained of in Paragraph 26 appeared after the defendant J. Kenneth Edlin had noticed a previous advertisement of First Colony which contained a statement that mortgages were insured, and who had immediately upon noting this phrase suggested that this advertisement be withdrawn and advised the advertising department that the statement might be premature in that First Colony had a commitment for the insurance of its mortgages (Exhibit "B"), and that until the recording of certain plats and until proper descriptions could be provided the insuring corporation, the mortgages were not in fact insured, but that the underwriting policies were all in compliance with the commitment of insurance and that they were therefore insurable. The advertising department then prepared the brochure complained of in this Paragraph 26.

The Government's position here seems very tenuous and would seem to place the Grand Jury, or at least the draftsman of this indictment, in the position of being a mind-reader of the general public since it does not appear to be based on any logical line of reasoning. Certainly, insurance is not a field of which the public is generally ignorant in these modern times. Most assuredly there must be some people who do not know the difference between that which is insured and that which is insurable, but it does not seem very probable that in these enlightened times that one could logically take the position or the theory that the general public would believe "insurable" to mean "insured." Certainly, let us hope that the American public as a whole is not this uninformed or this ignorant of common phraseology in the field of insurance, which affects almost every business or major activity in American commercial and home life.

INDICTMENT PARAGRAPH 27

Paragraph 27 complains of a brochure circulated by First Colony containing the allegedly deceptive phrase "Our lending policy is ultra-conservative. We do not

depend on endorsers but make certain of the collateral on which we loan."

Discussion

Here the Postal Department or the Grand Jury has obviously entered the underwriting field and reached the conclusion that in their judgment the loans of First Colony were not conservative, and therefore the advertising constituted a misrepresentation. This seems to be almost a question of semantics, and obviously must depend upon an interpretation of the word "conservative." Is a conservative loan a 90% loan, as made by many lending institutions; a 50% loan, as the limitation adopted by some Maryland institutions; a 75% loan, as was the policy of First Colony? What constitutes a conservative loan? Would not the interpretation of this phrase almost vary from state to state, and in some instances from county to county? Would not the decision on a particular loan vary from banker to banker? How many times has a loan presented to one bank been refused, and accepted by another bank, and who ever met a banker who didn't think he was conservative. It hardly seems that an advertisement could be deemed objectionable by the use of so vague and uncertain a term as the word "conservative."

INDICTMENT PARAGRAPH 28

Paragraph 28 complains of an advertisement prepared February of 1959 entitled, "Growth-Progress Report, December 31, 1958", which contained certain language deemed to be misleading by the Government, as follows: "How First Colony Savings safeguards your funds. Your funds are safe at First Colony Savings and Loan. They are backed by carefully selected mortgages at 100% safety on new homes in prime residential areas."

Discussion

This particular advertisement was prepared by Bishopric Greer & Fielden and was actually published in two different versions, one of which contained a statement of January 31, 1959 on the back, the other did not. The ad consisted of many items including a graph to show the growth in the number of savers, a graph showing the growth in life insurance, a comparison of average accounts according to national figures, a description of the various savings plans, announcement of the letting of a contract for a branch officer, the architect's drawings of the office under construction, as well as the language complained of. The preparation of this ad by the advertising agency and the advertising personnel of First Colony working together was commenced shortly after the A. I. Cassell loan, which the parties all knew included the proposed construction of a project of 75 homes on a tract of land including three-fourths of a mile of beach frontage on Chesapeake Bay, and which was generally described and in fact was one of the most beautiful tracts available in Maryland for development and was reasonably accessible to the District of Columbia, and was and still is considered by all as a prime location for housing, and the only technical error that can be found in the ad would be the use of the words "new homes" since no homes were under construction and the actual construction in progress was the preparation and installation of roads and a water system for this tract of land. Each of the parties considered this as an over-all project and in their own minds, probably erroneously, considered this as a housing development since it did contemplate the construction of 75 homes. Plans and specifications for these homes were previously delivered to Colony by A. I. Cassell. It is not difficult to understand how advertising personnel, not having the advantages of the legal training that we might find in the District Attorney's Office would not realize that the use of the words "new homes" when referring in fact to homes to be built in the future, would constitute a misrepresentation. It is doubtful if very many of those who saw or who were

intended to see this particular ad would have found any substantial difference or believed any differently had First Colony prepared a ten or fifteen page brochure outlining the over-all Cassell project, and it is hard to say how this technical misuse of the two words "new homes" could have constituted a misrepresentation that would be tantamount to fraud.

Indictment Paragraph 29

Paragraph 29 of the indictment deals with a subsequent purchase by Cassell of a 48-acre tract contiguous to the original 432-acre tract of Cassell, which was purchased for the sum of $9,000.00 through an intermediate corporation and ultimately sold to Cassell subject to a $13,000.00 first mortgage, and this mortgage is challenged as a further alleged departure from the lending policies of First Colony.

Discussion

The Government in its review of the purchase of this 48-acre tract by Cassell intentionally overlooks the fact that the land prior to its purchase was farm land, used as farm land and evaluated and appraised as farm land; that upon its ultimate purchase by Cassell it became an integral contiguous part of the A. I. Cassell subdivision, having the same attributes and advantages as to the use of beach frontage and as to the improvement of the Cassell tract as did the original tract, and could not and should not be evaluated or appraised as farm land and was properly evaluated on its lot value rather than as farm land.

This particular tract by reason of its location was a necessary and integral part of the over-all development plan of the Cassell tract, and its continued existence outside of the tract was a danger to the over-all development of the A. I. Cassell properties in that it was so located that future building, construction, or development of this 48-acre tract

not in line with the planned development of the original Cassell lands could have caused a depreciation of the value of the Cassell lands surrounding this tract, the purchase of which was financed by First Colony.

INDICTMENT PARAGRAPHS 30 AND 31

Paragraphs 30 and 31 are again objecting to the use of the words "first mortgages on new homes," heretofore discussed under Paragraph 28 of the indictment.

The balance of the indictment consists of the technical naming of individuals contacted by mail, to substantiate proceeding under the mail fraud statutes.

There is further attched hereto Exhibit "A", being a review of matters not considered in the indictment, but rather of those acts and facts that do not appear in the indictment and were not covered by the Government's investigation, all of which matters we feel should be carefully considered in any review of the propriety of this indictment or any prosecution thereunder.

"[Exhibits Omitted]".

GOVERNMENT'S EXHIBIT NO. 91

(Not printed at Government expense)

CONGRESSIONAL RECORD

Proceedings and Debates of the 86th Congress
Second Session

FEDERAL SAVINGS AND LOAN LEAGUES SEEK DESTRUCTION OF COMPETITIVE "INDEPENDENTS" AND COMMERCIAL MORTGAGE INSURANCE

Speech of Hon. Thomas F. Johnson of Maryland
In The House of Representatives

Thursday, June 30, 1960

Mr. JOHNSON of Maryland. Mr. Speaker, on the 27th of May there appeared in the financial section of the Washington Star an article by one Donald B. Hadley with the shocking black headlines: "Savings and Loans Urged To Warn Public of Maryland Phonies."

This article, published under the guise of "news," virtuously identifies the "Savings and Loans" in the headlines as the members of the District Federal Savings & Loan League, assembled at that time in convention at Hot Springs, Va. The "Maryland phonies" so broadly referred to are the 427 independent savings and loan associations chartered in the Free State of Maryland.

Such headlines are shocking because of the categorical smear of the entire independent savings and loan industry of my State. And even more shocking is the fact that a great newspaper such as the Washington Star should publish this unwarranted generalized slander.

Mr. Speaker, for nearly 100 years Maryland's independent savings and loan associations have served tens of thousands of small investors. They have encouraged home ownership with many millions of dollars of loans to Mary-

land citizens. And at the end of 1959 their combined assets amounted to more than $1,300 million.

In these headlined charges, however, there was no editorial qualification of any kind. Only in the body of the news story itself was a feeble attempt made at justifying the malicious phony characterization by quoting the District Federal Savings and Loan League' principal speaker, who declared that several Maryland associations had been prosecuted for mail fraud and misrepresentation in the last year.

What are the true facts? Let me point out again that there are over 400 independent savings and loan associations doing business in Maryland, and exactly three of them have been indicted and none convicted.

I personally do not know any of these indicted institutions, nor any of the circumstances leading to their respective indictments. I hold no brief for any of them one way or another. But I do submit that under our democratic processes of justice an indictment is one thing, conviction another; and guilt is not implied by indictment.

Nevertheless, in spite of this fact that only a fraction of 1 percent of the total is in jeopardy, over 99 percent of the industry is held up to public suspicion.

Mr. Speaker, a special subcommittee of this House under the chairmanship of our distinguished colleague, the gentleman from California [Mr. Moss], is now conducting a hearing, which began nearly 4 weeks ago, on the activities and management of the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation which it supervises. It is from these agencies that the Federal savings and loan associations derive their labels as "Federal" and "federally insured." It is from these Government instrumentalities, created by the Congress 26 years ago in an emergency, that savings and loan associations which have chosen to do so, are granted this so-called insurance of their depositors' savings up to $10,000

for each account. The Federal associations, in turn, advertise to the public that such savings are "insured by a permanent instrumentality of the U. S. Government." Of course, that is a good merchandising technique; and, most certainly, the impression has been created in the public mind that such savings accounts are actually guaranteed by the U. S. Government itself. This, I am told, is not a fact by statute or by any other legal provision.

It is not my intention, however, to analyze at this time the legislation, regulations, or lack of them pertaining to the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation. But since this newspaper article to which I am addressing myself does emphasize the factor of "Federal insurance" as further justification for an attack on the independent institutions of Maryland which are not "federally insured," I am constrained to deal with the subject. I present, therefore, the following statements for the record.

First, let us hear what this Washington Star article reports the District Federal Savings & Loan League's principal speaker has to say on the subject of insurance. He says, and I quote:

> During the past few months all of us have received or have been advised of mailing pieces sent out by these Maryland associations which purport to be commercially insured and which advertise comparatively high rates of dividends.

And a little further down in the story he declares:

> I believe one of our primary responsibilities to the public is to inform them by every means available of the significance of the Federal Savings and Loan Insurance Corporation and what it represents.

That is what the spokesman for this trade association of the District Federal Savings & Loan Associations had to say in behalf of their own advantages of "Federal insurance" in this article in the Star.

Now let us hear a portion of what our distinguished colleague, the gentleman from California [MR. KING], had to say on this subject in a speech to this body on the 19th of May under the heading "False Confidence in Federal Savings and Loan Insurance Corporation," and I quote:

> Over its 25 years of operation, the Federal Savings and Loan Insurance Corporation has only about $305 million reserves to insure over $50 billion of savings. Of this $305 million, the Insurance Corporation has committed over 25 percent to cover a false emergency created by its own unwarranted acts, leaving three-quarters of its assets to protect the remaining nearly 4,000 savings and loan associations. Its own reserves at the most are less than three-quarters of 1 percent of the amount insured.

I might add, Mr. Speaker, that not one single line of MR. KING's remarks was published in the Washington Star, or, for that matter, in any District newspaper.

I believe, Mr. Speaker, that at this point we may reveal the real theme of the story behind most of these vicious attacks on Maryland's independent savings and loan industry. The remarks of the Federal League's speaker which I have quoted spell out the word "competition" in letters even larger than the Star's misleading headlines. For example, he uses the phrase, and I quote, "these Maryland associations which purport to be commercially insured and which advertise comparatively high rates of dividends." And next he extols the virtues of so-called Federal insurance. He says, in effect, and I quote: "In spite of the fact that we pay our depositors less dividends than some Maryland independents, we are federally insured, and they only claim to be insured, and commercially insured at that. That's bad. Look out."

It is difficult to believe that this trade association advocate of Federal insurance does not know that some of these Maryland associations which purport to be commercially insured are, indeed, commercially insured.

Furthermore, what is wrong with paying citizens as much return on their invested savings as good management can pay? What is wrong with commercial insurance? It has been with us for a long time. The inference, of course, is that Maryland's independent savings and loan associations are shady operators instead of well-managed small businesses, and that commercial insurance, devised and underwritten by free enterprise, is less attractive than this so-called Federal Insurance.

I ask at this point, Mr. Speaker, under what imaginable circumstances in any State of this Union would any kind of a commercial insurance company be permitted to operate for a single day if its reserves were less than three-quarters of 1 percent of the amounts insured? And yet this spokesman for the Savings & Loan League holds up to public suspicion the integrity and bona fides of commercial insurance.

On June 2, the gentleman from California [MR. KING], who has studied savings and loan and other governmental financial operations for many years, and whose committee investigations have brought about legislation correcting abuses and mismanagement in certain of these executive branches of Government, made another statement on this floor on the conduct of this "Federal insurance" business and I quote:

> How any savings and loan association manager can face the public and assure the investor that the conduct of the management of the Federal Savings and Loan Insurance Corporation is a safeguard to their savings is beyond my comprehension.

At last, then, we have still another chapter in this curious story of competition between the large Federal associations in the city of Washington and the small independents doing business for the most part in 67 small towns throughout Maryland.

In order that there be no misunderstanding of this terminology of insurance as it has been used here, however,

let me point out that whereas the Federal type represents that it insures literally the savings of depositors—the liquidity of an association, in other words— the commercial insurance referred to is designed to protect an association's mortgage portfolio as to principal, interest, and foreclosure costs.

Thus we have a situation of competition, pure and simple. Competition between big business and small business. And today there is greater competition in the money market throughout the Nation and the world than ever before.

I submit that the healthy effects of honest competition are no less today than they were some 100 years ago. But I decry the tactics of federally nurtured big business which are calculated to stifle competition and to destroy ultimately hundreds of small businesses, and to confuse small investors in my district and in my State of Maryland.

Unfortunately for the public, few of the facts of this deplorable situation upon which I have touched so briefly are ever publicized. I have been told that most Washington daily newspapers will not even accept paid advertising from a Maryland independent savings and loan association. And this, I further understand, extends to the major radio and television stations as well.

Mr. Speaker, I have sought in these remarks to be entirely objective with respect to the pros and cons of this situation. In this defense of a basic and honorable industry of my district and my State I have endeavored to present facts and figures.

It is my sincere hope that on the basis of these facts the newspapers of the Nation's Capital will have a care before participating again in any such irresponsible effort to create public doubt as to the integrity and honesty of so many good neighbors, business establishments and citizens alike.

I have the honor to represent Maryland's First District,

and it was in this district that the Free State was first settled in 1631. Maryland is the seventh of the Original 13 Colonies to form these United States. We are proud of our heritage of fair play and tolerance in Maryland. We expect no more in return from anyone. We can settle for no less.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES v. JOHNSON, et al.

Criminal No. 26067

DEFENDANT EDLIN'S INSTRUCTION NO. 14

You are instructed that in this case the charges made against the Defendants rest upon circumstantial evidence. When, as in this instance, circumstances are relied upon to prove a particular fact or guilt beyond a reasonable doubt, such circumstances must be consistent with guilt alone and may not be reasonably consistent with innocence. In other words, if circumstantial evidence points two ways, like an ambiguous signboard, you cannot put any reliance on it. It must all point one way. It must all be consistent only with guilt and it must exclude the hypothesis or theory of innocence. (R. 458)

DEFENDANT EDLIN'S INSTRUCTION NO. 14a

(Alternative)

You are further instructed that you must find a defendant not guilty as charged if you find that the evidence is such that it is as consistent with innocence as with guilt. If you merely find that the evidence, while consistent with guilt, can also be found by you as consistent with innocence, then you must find the defendants not guilty as charged. (R. 459)

DEFENDANT EDLIN'S INSTRUCTION NO. 18

You are instructed that the mere fact that a speech was delivered by a Congressman in the House of Representatives is not in itself improper. You are further instructed that if such speech was prepared by some other person or is

made at the urging of some other person, that fact in and of itself or those facts in and of themselves do not constitute an offense. Under the law as determined by this Court, you are instructed that if, and only if, you find beyond a reasonable doubt that Congressman Johnson agreed to receive or did receive with a knowing conscious criminal intent compensation for delivery of the speech which was admittedly and concededly made in the House of Representatives on June 30, 1960, then and only then could an offense be sustained under the first count.

Accordingly, under the principles which this Court has determined as applicable to this case you are instructed as follows: If you have a reasonable doubt as to whether or not there was an agreement between Congressman Johnson and the other defendants to receive compensation for delivery of a speech in the House of Representatives, or if you have a reasonable doubt as to the criminal intent, then as to that aspect of the case you are instructed that, having a reasonable doubt about such fact, there has been no offense found. (R. 463)

DEFENDANT EDLIN'S INSTRUCTION NO. 18a

In reference to the speech aspect of the Conspiracy Count you are instructed that, under the law as determined by this Court, there is no offense unless the agreement allegedly entered into specifically contemplated that the sole motive and purpose for the speech was payment or promise of payment of compensation. (R. 464)

DEFENDANT EDLIN'S INSTRUCTION NO. 18b

(Alternative)

In reference to the speech aspect of the Conspiracy Count you are instructed that, under the law as determined by this Court, there is no offense unless the agreement allegedly entered into specifically contemplated that the sole motive and purpose for the speech was furthering the sole interests of the Defendant Edlin or Robinson or both, and that if the alleged agreement as charged had any other purpose, there

is no conspiracy as charged. If the motive of the defendant was simply to have expressed a general point of view under the law determined by this Court there is no offense in this aspect of the case. (R. 465)

DEFENDANT EDLIN'S INSTRUCTION NO. 18c

Under the law determined as applicable by this Court a mere agreement to pay or actual payment of campaign contributions does not constitute compensation or consideration as to Count I. If you find that the alleged agreement, as charged in Count 1, if there were such an agreement, had as its terms the promise to make campaign contributions and if you find that moneys paid to Congressman Johnson were to be paid as campaign contributions, and were in fact campaign contributions, they you are instructed that such promises or payments (if made) would not be compensation or consideration sufficient in themselves to sustain a conviction under Count 1. (R. 466)

DEFENDANT EDLIN'S INSTRUCTION NO. 18d

Under the law as determined by this Court, the mere promise of future law business, if made, is not in itself sufficient consideration to sustain a conviction under Count 1. Therefore even if you find the defendant promised Congressman Johnson future law business this is not in itself sufficient consideration to sustain a conviction under Count 1 known as the conspiracy charge. (R. 467)

DEFENDANT EDLIN'S INSTRUCTION NO. 19

You are instructed that with reference to that aspect of the First Count—the so-called conspiracy Count—pertaining to the visits to the Department of Justice, it is undisputed by the Defendants that certain visits and contacts were made by Congressman Johnson and Congressman Boykin to the Department of Justice officials.

You are further instructed that the mere fact that there may have been an agreement between the parties with

reference to such visits, in and of itself, is not in and of itself improper, and is not in and of itself sufficient to sustain a conviction.

Under the law which this Court has determined applicable to this case, you are instructed as follows:

1. If you have a reasonable doubt as to whether or not the Defendant, Thomas Johnson, advised the Department of Justice or put the Department of Justice officials upon notice that he was acting in the capacity of an attorney at the time of the visits with the officials of the Department of Justice then you are instructed that if he did so advise, the said officials, or if you have a reasonable doubt as to whether he did so advise the officials of the Department of Justice, or if you have a reasonable doubt as to whether or not the Department of Justice officials were put on notice that Congressman Johnson was acting in the capacity of an attorney then you are instructed that as to that aspect of the case there is no offense under the charges of this indictment.

2. Further, even if you find that the Defendant Thomas Johnson did not disclose or give notice of the fact that he was acting as an attorney to the officials of the Department of Justice, if you so find the facts, then you are further instructed that no offense has been committed if such payments as Congressman Johnson may have agreed to receive or did receive or such compensation as Congressman Johnson agreed to receive or did receive, related to legal services performed by him and did not relate to such visits. Therefore, you are instructed that as to the first charge of this indictment which is a charge of conspiracy or an agreement, if you find that the evidence of compensation in this case as presented by the Government related to legal services performed by Congressman Johnson and do not relate to payment or compensation for visits to the Department of Justice or if you have a reasonable doubt as to such fact, then you are further instructed that no offense has been committed.

As to the remaining defendants, you are further instructed that unless you find beyond a reasonable doubt, they knowingly and willfully and with a wrongful criminal intent, based upon actual notice, conspired with Congressman Johnson actually knowing in what manner he was acting, then as to such defendant who did not so act or have actual notice, you are instructed no offense has been committed.

As to that aspect of the case which related to the land transactions of Virginia and Maryland tracts, you are specifically instructed that it is proper and is not violative of the law for a Congressman, whether acting individually or as a representative or a force in a corporation to buy, sell, or in any way deal with real estate. You are not to consider that there is anything improper in and of itself if a Congressman so acts nor is it improper for any person or firm to deal with a Congressman in such regard. Accordingly, you are instructed that under the principles which this Court has determined as applicable to this case the law is as follows:

1. If you have a reasonable doubt as to whether or not the land transaction by and between the corporations involved herein acting through the persons who were either their agents or interested parties was a bona fide or good faith transaction, then you are instructed that as to that aspect of the case there has been no offense charged or shown. There could only be an offense if the agreement with respect to the land transactions was entered into as a knowing, intentional means of payment to the Congressman for making contacts and holding meetings with officials of the Department of Justice with the intent to corruptly influence their decisions. In other words, if you have a reasonable doubt as to whether or not the land transactions were designed to be compensation for the activities of Congressman Boykin and/or Congressman Johnson or both, as distinguished from a land transaction between two contracting parties, then and in that event having a reasonable doubt as to whether the alleged agreement between the parties related to compensation for such activities at the

Department of Justice to corruptly influence its officials, you are instructed that the Defendants must be acquitted. (R. 468-R. 470)

DEFENDANT EDLIN'S INSTRUCTION NO. 19a

(Alternative)

You are instructed that with reference to that aspect of the First Count—the so-called conspiracy County—pertaining to the visits to the Department of Justice, it is undisputed by the Defendants that certain visits and contacts were made by Congressman Johnson and Congressman Boykin to the Department of Justice officials.

You are further instructed that the mere fact that there may have been an agreement between the parties with reference to such visits, is not in and of itself improper, and is not in and of itself sufficient to sustain a conviction.

Under the law which this Court has determined applicable to this case, you are instructed as follows:

1. If you have a reasonable doubt as to whether or not there was an agreement to which the Defendant Edlin was a party that the Defendant, Thomas Johnson, should or would conceal his interests from the Department of Justice or should or would fail to put the Department of Justice officials upon notice that he was acting in the capacity of an attorney at the time of the visits with the officials of the Department of Justice, or if you have a reasonable doubt as to whether or not the Department of Justice officials were to be put on notice that Congressman Johnson was acting in the capacity of a compensated attorney, then you are instructed that as to that aspect of the case there is no offense under the charges of this indictment.

2. Further, even if you find that there was an agreement that the Defendant Thomas Johnson would or should not disclose or give notice of the fact that he was acting as an attorney to the officials of the Department of Justice, if you so find the facts, then you are further instructed that no offense has been committed if there was an agreement also

that such payments as Congressman Johnson may have agreed to receive or did receive, or such compensation as Congressman Johnson agreed to receive or did receive, related to legal services performed by him and did not relate to such visits. Therefore, you are instructed that as to the first charge of this indictment which is a charge of conspiracy or an agreement, if you find that the evidence of an agreement as to compensation in this case related to legal services performed by Congressman Johnson and do not relate to payment or compensation for visits to the Department of Justice or if you have a reasonable doubt as to such fact, then you are further instructed that no offense has been committed.

As to this defendant, you are further instructed that unless you find beyond a reasonable doubt, he knowingly and willfully and with a wrongful criminal intent, based upon actual notice, conspired with and entered into such agreement with Congressman Johnson actually knowing in what manner he was to or would act, then as to this defendant who did not so agree, you are instructed that as to this aspect no offense has been committed under the First Count.

As to that aspect of the case which relates to the land transactions of Virginia and Maryland tracts, you are specifically instructed that it is proper and is not violative of the law for a Congressman, whether acting individually or as a representative of a force in a corporation to buy, sell, or in any way deal with real estate. You are not to consider that there is anything improper in and of itself if a Congressman so acts nor is it improper for any person or firm to deal with a Congressman in such regard. Accordingly, you are instructed that under the principles which this Court has determined as applicable to this case the law is as follows:

1. If you have a reasonable doubt as to whether or not the alleged agreement relating to land transaction by and between the corporations involved herein acting through the persons who were either their agents or interested

parties was a bona fide or good faith transaction or pursuant to as knowingly a criminal agreement, then you are instructed that as to that aspect of the case there has been no offense charged or shown. There could only be an offense under this indictment if the agreement with respect to the land transactions was entered into as a knowing, intentional means of payment to the Congressman for making contacts and holding meetings with officials of the Department of Justice with the intent to corruptly influence their decisions. In other words, if you have a reasonable doubt as to whether or not there was an unlawful agreement in that the land transactions and fee agreement were designed to be compensation and consideration for improper and illegal activities of Congressman Boykin and/or Congressman Johnson or both, as distinguished from a land transaction and attorneys fee agreement between two contracting parties, then and in that event having a reasonable doubt as to whether the alleged agreement between the parties related to compensation for such alleged illegal activities at the Department of Justice to corruptly influence its officials, you are instructed that the Defendants must be acquitted. (R. 471-473)

DEFENDANT EDLIN'S INSTRUCTION NO. 20

You are instructed that as to the remaining counts—Counts two through eight, are the so-called substantive counts.

These are not counts charging a conspiracy. They are charges that there was a violation of Title 18, Section 281 of the U. S. Code which has sometimes been referred to as the Conflict-of-Interests Statute. In these counts, Congressman Johnson is charged as the principal and the remaining defendants are charged as alleged aiders and abettors, that is as persons who are alleged to have aided the Congressman in the claimed violations.

The essential elements of these offenses consist of alleged improper conduct by Congressman Johnson, which is claimed to have been aided and abetted by the remaining defendants. You have been instructed in this regard, that

under the law, if you have a reasonable doubt as to any one of the essential elements of the offenses, then as to that count you must find the defendant not guilty. Furthermore as to these particular substantive counts, Count two through eight, if you find under the law as determined by this Court that Congressman Johnson is not guilty on these counts, or any of them, then as to such count or counts in which you find Congressman Johnson not guilty, you must also find the remaining defendants not guilty. (It is, of course, also possible as I shall explain further and for additional reasons, for you further to find the remaining defendants not guilty even apart from finding of guilt as to Congressman Johnson.)

The essential elements which this Court has determined as the law applicable to this case are:

1. That Congressman Johnson, willfully, knowingly and with a wrongful criminal intent sought to influence the decision of the Department of Justice officials in reference to a pending indictment against the defendant Kenneth Edlin and others, and was paid compensation in the specific amount stated in each count for the specific alleged services rendered on the date stated in the particular count, and that such offenses occurred in the State of Maryland. Therefore if you have a reasonable doubt as to whether Congressman Johnson knowingly and with a willful and criminal intent did perform services in an attempt and with the wrongful intent to influence improperly the decisions of the Department of Justice officials with reference to a pending criminal case involving the defendant, Mr. Edlin and others, or if you have a reasonable doubt as to whether Congressman Johnson was so paid for such services at such time, or if you have a reasonable doubt as to whether there was a knowing criminal intent on Congressman Johnson's part as to such alleged services, or if you have a reasonable doubt that the claimed payment received by him was for legal services unrelated to the activities of Congressman Johnson before the Department of Justice or its officials, or if you have a reasonable doubt that the alleged offense occurred in the State of Maryland, then having a reasonable doubt about

any one of these essential elements, you must acquit and find the defendant Congressman Johnson not guilty as charged in the Count II, under law which this Court has determined as applicable to such Count. You need not have a reasonable doubt about all of these factors, but only one in order to acquit.

Count two has charged that the Congressman was paid for such alleged services the sum of $800.00 on or about April 3, 1961. If under the foregoing instructions you have a reasonable doubt as to whether such payment was for services allegedly rendered before the Department of Justice on that date or a reasonable doubt as to the criminal intent of Congressman Johnson, or as to whether such payment was for legal services unconnected or unrelated to alleged activities at the Department of Justice, or a reasonable doubt as to whether the alleged offenses occurred in the State of Maryland then as indicated, if you have such reasonable doubt as to any one of the essential elements of the offense, you must find the defendant Congressman Johnson, and consequently the remaining defendants, not guilty as charged in Count two.

As to Count three through eight, the same elements are required except that the dates and amounts of the sums alleged to have been paid are different. As to these counts once again if you have a reasonable doubt that the particular sum alleged to have been paid in Count three, in fact was paid for the alleged services in an attempt and with the wrongful intent to influence improperly the Department of Justice officials as to a pending criminal case, or if you have a reasonable doubt as to whether the actions of Congressman Johnson were willful, knowing criminal intent or if you have a reasonable doubt as to whether such payments as are claimed to have been made were instead made for legal services unconnected with activities of Congressman Johnson in relation to the Department of Justice, or if you have a reasonable doubt as to whether the alleged offenses occurred in the State of Maryland, then, should you have a reasonable doubt about any one of these essential elements, you are instructed that having such a reasonable doubt,

you must find the defendant Congressman Johnson, and consequently the remaining defendants, not guilty as charged, as to all or any of these remaining counts on which you have such doubt.

You are further instructed that even if you may have no reasonable doubt with respect to Congressman Johnson, and should you find him guilty as to all or any of these counts two through eight you may still find the (remaining) defendants not guilty if you further find as follows:

1. That as applied to this particular defendant there is a reasonable doubt, that such defendant had himself a criminal intent or that he allegedly aided and abetted the Congressman with a knowing, willful and criminal intent as I have defined it, or

2. That as to such defendant, you have a reasonable doubt that he had actual notice or knowledge of the manner or status or representations Congressman Johnson made or asserted to the Department of Justice officials; and if you find such defendant did not have such actual knowledge and if such remaining defendant acted in good faith without actual knowledge of the representations of Congressman Johnson, then and in that event, having such a reasonable doubt as to such defendant, you must find that defendant not guilty as charged. (R. 474-477)

DEFENDANT EDLIN'S INSTRUCTION NO. 21

You are instructed that as to Count One, the law requires that before a defendant can be convicted under this offense he must have a criminal intent. By a criminal intent is meant under this Statute a willful and knowing intent of a specific nature to violate this particular law. If you have a reasonable doubt as to whether the defendant had a specific intent of a knowing conscious nature to violate the particular law applying to this case, then and in that event having such a reasonable doubt on the issue of criminal intent, you must find the defendant not guilty as charged.

The same requirement of specific intent is applicable to

counts two through eight, the so-called substantive counts involving the Conflict of Interests statute. If you have a reasonable doubt as to whether this defendant had a specific intent to violate the particular law applying to this case, knowing and willfully, then and in that event, having such a reasonable doubt about his intent within the definition of such intent that I have given you, you must find the defendant not guilty as charged. (R. 478)

DEFENDANT EDLIN'S INSTRUCTION NO. 21a

(Alternative)

You are instructed that even assuming that you should find that an alleged unlawful agreement was entered into as to Count I in the form charged in this count and for the purposes charged in this count, if you find that the defendant Kenneth Edlin (or any of the other defendants) did not have knowledge or notice that the actions charged against them were in violation of the law, then and in that event, if you should have a reasonable doubt as to such fact, you must find the defendant Kenneth Edlin (or such other defendants as did not have notice or knowledge) not guilty as charged.

The same instruction is given you with respect to counts two through eight. If you find from the evidence that you have a reasonable doubt as to whether or not that the defendant Kenneth Edlin had knowledge or notice that the alleged acts charged against him as an aider and abettor were in violation of the law then and in that event having such reasonable doubt you must find the defendant not guilty as charged. (R. 479)

DEFENDANT EDLIN'S INSTRUCTION NO. 21b

(Alternative)

You are instructed that unless you find that the defendant knew that the particular objects of the alleged agreement in this case as charged violated the law you must find the defendant not guilty as charged. (R. 480)

DEFENDANT EDLIN'S INSTRUCTION NO. 23

Under the law as determined by this Court you are instructed (1) The mere fact that a synopsis and/or memoranda of legal and factual arguments in reference to the pending case was submitted to the Department of Justice is not to be considered as supporting any essential element of the alleged charges against the defendant, (2) If the defendant (Edlin) intended that the Congressman should seek only a decision on the merits and if you find he had reason to believe that this is all the Congressman would seek to do, then no offense has been shown. (R. 481)

DEFENDANT EDLIN'S INSTRUCTION NO. 24

You are instructed that there is evidence in this case from which the jury may infer that as to the defendant Kenneth Edlin his actions in this case were based upon consultation and advice with attorneys.

You are further instructed that in this particular case, which requires a specific intent the advice of attorneys may be a good defense, and that if you believe that Mr. Edlin did in fact rely upon the advice of counsel in this matter, then and in that event you should find him not guilty, as charged. (R. 482)

DEFENDANT EDLIN'S INSTRUCTION NO. 24a

(Alternative)

You are instructed that there is evidence in this case that the defendant Mr. Edlin, insofar as his actions relate to the general issue of criminal intent, was advised by and consulted with attorneys as to such actions. If you find this to be the fact and if you find that his actions were in reliance upon such advice, then you are instructed that there is no showing of the required specific intent as to this defendant. If you have a reasonable doubt as to this matter, you should find the defendant Kenneth Edlin not guilty as charged, as to all counts. (R. 483)

DEFENDANT EDLIN'S INSTRUCTION NO. 24b

(Alternative)

You are instructed that there is evidence in this case from which the jury may infer that as to the defendant Kenneth Edlin his actions in this case were based upon consultation and advice with attorneys. If you find that this be the fact, you are further instructed that advice of an attorney is evidence of good faith and may be considered by you as bearing upon the question of whether or not there has been a conscious knowing criminal intent sufficient to sustain a conviction. (R. 484)

DEFENDANT EDLIN'S INSTRUCTION NO. 27

You are instructed that under the law as determined by this Court, to be unlawful, the alleged agreement which is charged in Count One must have as one of its terms the knowing intent of the defendant to use corrupt influence. If you have a reasonable doubt that it was the intent of the defendant that corrupt influence should be used upon Department of Justice officials, then no offense can be found.

Similarly, under the remaining seven counts. If as to these counts you have a reasonable doubt that the defendant intended a corrupt influence to be exercised, then you must acquit.

In this case, by a corrupt influence is meant a special influence not related to the usual office of a Congressman. Further, if you find that the defendant did not intend that the Congressman should use their position or status as Congressman to sway the Department of Justice officials involved but rather intended only a decision or action on the merits then there is no offense as to such defendant. (R. 487)

DEFENDANT EDLIN'S INSTRUCTION NO. 28

You are also instructed that under the law which this Court has determined as applicable to this case services which are rendered or agreed to be rendered are not those

respecting matters made only as an incident to other business in which a defendant Congressman might lawfully engage, but only services to be rendered by such defendant with the intent and purpose of corruptly influencing and bringing to bear such corrupt influence as such defendant may have on official action. In this regard it is established that any Congressman may submit to the Department of Justice or any of its officials a brief or other memoranda or other document to support his contention that the charges against a defendant are unfounded.

Under the applicable law only if the defendant made payment or an agreement for payment with the intent I have stated and with the intent to pay for such services would such conduct be subject to the charges asserted in this case, provided further, of course, that all the other elements I have mentioned or will mention are also found beyond a reasonable doubt. (R. 488)

DEFENDANT EDLIN'S INSTRUCTION NO. 29

Under the law this Court has determined as applicable to this case you are further instructed that from the mere fact that a speech was given or delivered in the House of Representatives by Congressman Johnson on June 30, 1960, and that reprints were ordered, you are not to infer that anything improper was done. Under the law which the Court has determined as applying to this case, Congressman Johnson had an absolute right to deliver the speech for any reason whatsoever connected with his functions as a Congressman and if reprints were ordered by any of the defendants they had an absolute right to do so. Only if you find beyond a reasonable doubt that Congressman Johnson delivered the speech involved in this case pursuant to a knowing, conscious agreement made with a criminal intent, solely for the purpose of receiving payment of monies or promises of payment of monies, would an offense be established. Only if the speech was made for the sole purpose of the payment of monies to Congressman Johnson for the delivery of such speech could an offense be found under Count One. (R. 489)

DEFENDANT EDLIN'S INSTRUCTION NOS. 32 & 33

You are instructed that as to Count One of the indictment and Counts 2 through 8 the evidence does not sustain the charges against the defendant Edlin and you should therefore return a verdict of Not Guilty as to such defendant. (R. 493-R. 494)

MOTION FOR NEW TRIAL AND/OR MOTION IN ARREST OF JUDGMENT AND/OR MOTION FOR JUDGMENT OF ACQUITTAL NOTWITHSTANDING THE VERDICT

Comes now the Defendant, J. Kenneth Edlin, by and through counsel and moves this Court to grant a new trial and/of to arrest judgment and/or to grant a judgment of acquittal n.o.v., (1) for reasons which appear in the previous motions which have been made both orally and in writing, (2) for reasons which appear in the objections to the charge and (3) for such other and further reasons which appear in the Points and Authorities attached hereto and made a part hereof and which shall be further urged at the hearing of this motion.

s/Edward L. Genn

Attorney for Defendant Edlin

POINTS AND AUTHORITIES

1. The indictment does not state an offense. As indicated in the previous motions and in particular the motion to dismiss the indictment and for reasons stated therein it is submitted that no offense has been charged under either Count I or Counts II through VIII of the indictment. Among such reasons are these:

The indictment and charge fail to state an offense.

Neither the alleged postponement of the then pending indictment or the alleged dismissal of the indictment could be functions of the Department of Justice or its officials.

Both Count I and the proof purportedly submitted by the Government in this case have resulted in a duplicitous charge; there are in effect a number of alleged conspiracies charged, rather than one offense. The charge of the Court in reference thereto is incorrect.

There is a fatal variance between the charge of the indictment and the evidence purportedly submitted by the Government. The variance is prejudicial.

Count I of the indictment is so vague and was permitted by the Court to be used so broadly as to deprive the Defendant Edlin of a fair trial violating the spirit in a concurring opinion of Justice Jackson in Krulewitch v. U. S., 336 U.S. 440.

No violation has been shown of § 371 for failure to show any interference of obstruction of alleged lawful governmental functions.

2. The indictment is in conflict with constitutional provisions as indicated in the previous motion and argument before this Court. Count I of the indictment and the charge to the jury is in conflict with Article I, § 6, Clause I of the United States Constitution.

3. Neither Count I of the indictment, nor the related evidence and charge to the jury state an offense involving a defrauding of the United States. For reasons which have been previously stated in oral and written motions, it is submitted that there has been no showing of a defrauding of the United States within the adjudicated cases defining the meaning of this offense as charged in Count I.

4. The Court's failure to grant Defendant Edlin's instructions in reference to Counts I through VIII is error. Both by virtue of the instructions submitted to the Court by this Defendant and in the exceptions to the charge of the Court to jury this Defendant indicated his disagreement with the Court's theory of the case in reference to all counts of the indictment. For example, the Defendant Edlin's instruction 18(b) sought to make clear to the jury that it is proper for persons to have a point of view ex-

pressed, and that a speech which is made merely to state a point of view does not constitute an offense within the meaning of the indictment. The failure of the Court to charge in this regard is error. Similarly, Defendant Edlin's instruction 18(c) also sought to make clear to the jury that it could not consider campaign contributions as compensation in this case if such monies were paid to Congressman Johnson simply as campaign contributions and nothing more. The jury should have been so instructed. Among other things, instructions 19(a) and 20(a) sought to make clear to the jury both the quantum of proof on each element of the alleged offense and the elements themselves necessary to sustain a conviction. The Court erroneously instructed the jury that even if Congressman Johnson was acting as an attorney there would be an offense if he used congressional influence. It is submitted that this instruction is in error.

The failure to grant the substance of Defendant Edlin's instruction No. 23, particularly the second portion of it relating to what was intended by this Defendant was error. The failure to grant the substance of Defendant Edlin's instructions 24(a) or 24(b) based upon the defense of consultation and advice with attorneys is error. Defendant Edlin's instruction No. 27 related to the form of corrupt influence which it has submitted should have been stated to the jury. In the light of the Court's specific charge and theory of the case it was essential that the jury be instructed that a form of corrupt influence as indicated in Defendant Edlin's instruction No. 27 had to be found in reference to the specific counts referred to in order for a conviction. Similarly, the Court erred in denying Defendant Edlin's instruction No. 28. Failure to grant Defendant Edlin's instruction No. 29 in whole or in substance was error.

Denial of the remaining instructions submitted by this Defendant was error.

5. The Court erred in failing to grant Defendant Edlin a mistrial on the ground of prejudice occurring in the case. This Defendant at various stages in the proceeding moved the Court for a mistrial. No useful purpose could be served

in repeating once again the numerous grounds which support this motion.

In summary it is clear that a number of prejudicial matters were brought into evidence in this case to a degree which prevented this Defendant from obtaining a fair trial. Among them were the matters related to the 1941 conviction, the testimony relating to events surrounding the Koruna Savings & Loan Company, the testimony of Mr. Meyer (with its constant repetition), references to the pending Montgomery County indictments, characterizations of an adverse nature made by witnesses both for the Government and for the other defendants, and such other prejudicial matters, including exhibits, as have been mentioned both in the motions and objections at trial, both specifically and in subject matter.

At no time has this Court ever responded to, not has the Government responded to the contention as to the impact and purpose of the Attorney-General volunteered remarks, characterizing of this Defendant's testimony before the Grand Jury, nor has this Court indicated, nor has the Government indicated the justification for Government's Exhibits 185 a-k (the "post-conspiracy" Edlin-Goldman-Robinson checks); nor has there been justification shown for the remarks of the Assistant Attorney-General, Mr. Miller (including discussions of past convictions, the savings and loan "situations," even the use of the depositors money to pay a supposed fine); nor has there been justification for the characterizations by the other Government witnesses and the defendants witnesses as to this Defendant.

At page 57 of this transcript at the outset of this trial the court made mention of the Michaelson case and of the importance of abiding not only to the words, but to the "spirit" of the Michaelson case. Over a period of twelve weeks of constant emphasis and re-emphasis of the past history of this Defendant it is submitted that if there is a spirit in Michaelson it dissipated itself in the first day of trial and was never revived again. This Court stated at pages 57-58 of the transcript that even if prejudicial matters

had some relevancy, if that relevancy were remote the Court would not permit such testimony. With reference to the discussions of the Koruna transaction and their emphasis and re-emphasis, the question can be put as to what was the actual materiality or relevancy to this case of these discussions. The Government did not even seek to argue or mention it. Of what real significance was the discussion of Meyer's information? Yet pages of testimony by Mr. Meyer or of discussions about what Mr. Meyer said, or of what each of the parties said about what Mr. Meyer said, were presented to the jury. Even assuming for the sake of discussion that the fact of the Meyer visit may have some materiality, what is the significance of the discussions themselves, what is the materiality of the information given? It is submitted that the prejudicial matters stated so far outweigh any remote materiality that they may have that the "spirit of Michaelson" as the Court stated it, was in fact violated. The sole effect of this kind of matter and the other like or similar characterization was to taint the atmosphere surrounding the facts to such a degree that no fair trial could be given to this Defendant.

Venue: No proper venue was shown as to the counts of the indictment.

Argument: The Court erred in permitting the Government to comment on failure of the Defendant Edlin to stipulate to evidence and in permitting the Government to make demand in open Court for such stipulation.

The Court erred in permitting the Government in final arguments to make what constituted comment upon Defendant Edlin's failure to take the witness stand.

The Court erred in permitting the Government to make improper argument to the jury.

Other Reasons: Substantial evidence purportedly limited to consideration of the conspiracy count inevitably prejudiced and affected charges in references to this count, no clear distinction being made to the jury in this regard.

The Court did not properly limit admissibility of evidence with reference to the substantive counts.

Defendant Edlin incorporates herein the further reasons set forth in the memoranda of his co-defendants.

Summary: For these reasons and for reasons which have been urged previously both in the motions and hearings both prior to trial, during trial and conclusion of the evidence, and for reasons which were urged as exceptions to the charge, and for other and further reasons which should be urged at the hearing of this motion or by any supplementary memorandum, Defendant Edlin moves the Court for a new trial and/or judgment of acquittal n.o.v. and/or to arrest judgment herein.

s/Edward L. Genn

Attorney for Defendant Edlin

MOTIONS OF THE DEFENDANT JOHNSON FOR JUDGMENTS OF ACQUITTAL AT THE CLOSE OF ALL THE EVIDENCE UNDER CRIMINAL RULE NO. 29.

Motions of the Defendant Johnson for a Judgment of Acquittal Under the First Count (the Conspiracy Charge) of the Indictment

I

A. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment on the ground that the evidence questions in a place other than the House of Representatives the speech of Congressman Thomas F. Johnson in the House of Representatives in violation of Section 6, Clause 1, of the Constitution of the United States.

B. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment on the ground that said First Count violates the Sixth Amendment

of the Constitution of the United States, and the due process clause of the Constitution by depriving this accused of his right "to be informed of the nature and cause of the accusation . . ." by charging this Defendant with participation in a conspiracy, the purposes of which are so vague, general and indefinite that this Defendant is not apprised of the offense charged. *United States v. Mills,* 7 Pet. 142; *United States v. Lattimore,* 127 Fed. Supp. 405, 410; *Sutton v. United States,* 157 F.2d 661 (5th Cir.); *Fontana v. United States,* 262 F. 283, 286 (8th Cir.); *Asgill et al. v. United States,* 60 F.2d 780, 785 (4th Cir.).

C. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment on the ground that the Government purports to charge a conspiracy to defraud the United States when in actuality it is attempting to charge a conspiracy to commit a specific offense against the United States, namely, a conspiracy to violate 18 U.S.C. Section 281. (See Paragraphs (18) to (25) inclusive and Overt Acts (17) to (75) inclusive.)

D. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment on the ground that said First Count charges two or more offenses in violation of Rule 8(a) of the Federal Rules of Criminal Procedure, namely, the Government charges in a single count several separate conspiracies: (1) a conspiracy to defraud the United States of its governmental functions; and (2) a conspiracy to commit an offense against the United States, i.e., a violation of 18 U.S.C. Section 281.

E. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment on the ground that said First Count charges in a single count several separate conspiracies in time and membership: one conspiracy relating to an alleged agreement in June, 1960, that this Defendant as a member of the House of Representatives would not act impartially, free from influence in relation to matters pending in the House of Representatives and the other a conspiracy relating to an alleged

agreement in March, 1961, to exert influence for compensation upon officers of the Department of Justice.

F. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment on the ground that the First Count is fatally defective by reason of its duplicity.

II

A. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment upon the ground that the evidence is insufficient to sustain a conviction of the offense charged.

B. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment upon the ground that there is no sufficient evidence to show that, from on or about April 1, 1960, until on or about December 31, 1961, or during any lesser period, the Defendants conspired to defraud the United States of its governmental functions and rights described in the First Count of the Indictment.

C. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment upon the ground that there is not sufficient evidence to show that it was a part of the conspiracy that this Defendant should, at the request of Defendants Edlin and Robinson, render services for compensation by the making of a speech defending the operations of Maryland's independent savings and loan associations.

D. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment NWV upon the ground that there is not sufficient evidence to show that it was a part of the conspiracy that Edlin and Robinson and the other alleged co-conspirators would pay money or other valuable considerations to this Defendant to influence the officials of the Department of Justice to promote the interests of Edlin, Robinson and the other alleged co-conspirators.

E. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment upon the ground that the evidence is not sufficient to show that, as a part of the conspiracy, this Defendant would render services for compensation to any of the other Defendants by interceding with the officials of the Department of Justice.

F. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment upon the ground that the evidence is not sufficient to show that as a part of the conspiracy this Defendant would communicate with the Attorney General or Assistant Attorney General Miller to cause the postponement or dismissal of the mail fraud indictment for which this Defendant would receive compensation or promises of compensation.

G. Motion of the Defendant Johnson for a judgment of acquittal under the First Count of the Indictment upon the ground that the evidence is not sufficient to show that the Defendants conspired from about April 1, 1960, until about December 31, 1961, or during any lesser period, to defraud the United States of its governmental functions.

H. Defendant Johnson moves for a judgment of acquittal under the First Count of the indictment on the ground that:

1. The First Count charges an alleged conspiracy "to defraud the United States or any agency thereof" under 18 U.S.C. Sec. 371.

2. As used in the statute, the words "to defraud the United States or any agency thereof" mean to cheat the Government out of property, money or taxes or to obstruct Governmental functions by deceit, trickery, misrepresentations or false statements; and

3. There is no sufficient evidence in this case that Johnson did conspire to defraud the United States or any agency thereof within the meaning of the statute.

III

Motions of the Defendant Johnson for Judgments of Acquittal with Respect to the Substantive Counts of the Indictment

A. Defendant Johnson moves for a judgment of acquittal under each substantive count of the Indictment upon the ground that the evidence is not sufficient to sustain a conviction of the offense charged.

B. Defendant Johnson moves for a judgment of acquittal under the Second Count of the Indictment upon the ground that the evidence is not sufficient to show that this Defendant received a check dated March 31, 1961, in the sum of $800.00 for services rendered or to be rendered by him before the Department of Justice in relation to the mail fraud indictment.

C. Defendant Johnson moves for a judgment of acquittal under the Third Count of the Indictment upon the ground that the evidence is not sufficient to show that this Defendant received a check dated May 2, 1961, in the sum of $3,500.00 for services rendered or to be rendered by him before the Department of Justice in relation to the mail fraud indictment dated November 17, 1959.

D. Defendant moves for a judgment of acquittal under the Fourth Count of the Indictment upon the ground that the evidence is not sufficient to show that this Defendant received a check dated May 25, 1961, in the sum of $2,500.00 for services rendered or to be rendered by him before the Department of Justice in relation to the mail fraud indictment dated November 17, 1959.

E. Defendant Johnson moves for a judgment of acquittal under the Fifth Count of the Indictment upon the ground that the evidence is not sufficient to show that this Defendant received a check dated June 7, 1961, in the sum of $4,000.00 for services rendered or to be rendered by him before the Department of Justice in relation to the mail fraud indictment dated November 17, 1959.

F. Defendant Johnson moves for a judgment of acquittal under the Sixth Count of the Indictment upon the ground that the evidence is not sufficient to show that this Defendant received a check dated June 28, 1961, in the sum of $3,250.00 for services rendered or to be rendered by him before the Department of Justice in relation to the mail fraud indictment dated November 17, 1959.

Q. Defendant Johnson moves for a judgment of acquittal under the Seventh Count of the Indictment upon the ground that the evidence is not sufficient to show that this Defendant received a check dated August 4, 1961, in the sum of $2,000.00 for services rendered or to be rendered by him before the Department of Justice in relation to the mail fraud indictment dated November 17, 1959.

H. Defendant Johnson moves for a judgment of acquittal under the Eighth Count of the Indictment upon the ground that the evidence is not sufficient to show that this Defendant received a check dated September 12, 1961, in the sum of $1,500.00 for services rendered or to be rendered by him before the Department of Justice in relation to the mail fraud indictment dated November 17, 1959.

I. Defendant Johnson moves for a dismissal of each of the substantive counts upon the ground that the evidence is not sufficient to show venue within the State or District of Maryland.

GEORGE COCHRAN DOUB,

Attorney for Thomas F. Johnson

Of Counsel:

WEINBERG AND GREEN

MOTIONS OF DEFENDANT JOHNSON TO STRIKE TESTIMONY AND EXHIBITS

1. The Defendant Johnson moves to strike Government Exhibit No. 6 upon the ground that the Government failed to show that Mr. Johnson received any sum of money in cash from any source at any time, including the sum of $500.00 which the voucher indicates was paid by First Continental Savings and Loan Association to Edlin "to reimburse for personal outlay; legal —Johnson, $500." (Tr. Vol. 4, p. 207-208)

Government Exhibit No. 6 was admitted subject to exception by Defendant Johnson and provided the Government followed it up by showing Johnson received that sum. There is no evidence in the record supporting the Exhibit.

(Granted.)

2. Defendant Johnson moves to strike (a) the testimony of FBI Special Agent Robert Milne on June 5, 1963, as to verbal statements made to him by the defense witness Buarque in an interview with Milne on January 11, 1962, and (b) the testimony of FBI Agent Strickland as to verbal statements made to him by the Defendant Robinson in an interview on January 27, 1962, on the following grounds.

Both agents stated on cross examination that they had destroyed their written notes of the interviews made contemporaneously in the course of the interviews after the later preparation from the notes of narrative statements. Neither FBI agent testified that his notes had been lost, stolen or inadvertently destroyed; and on the other hand it may be reasonably inferred that their notes were destroyed pursuant to a considered policy of the Federal Bureau of Investigation.

18 U.S.C. Sec. 3500 requires the trial judge, upon a motion by the defendant, to "order the United States to produce any statement . . . of the witness in the possession of the United States" which is relevant to the direct testimony of the Government witness. It is our contention that the words

"in the possession of" should be interpreted as ordinarily meaning "possession of the United States at the present time". *Campbell v. United States,* 365 U.S. 85, 102 (where Government counsel stated that he did not possess the contemporaneous statements and this statement was not questioned by defense counsel). We submit, however, that the words "in the possession of the United States" comprehends the written notes of a Government agent which have been deliberately destroyed by him, whether pursuant to administrative policy or otherwise. *Campbell* did not deal with this issue.

As the Court of Appeals for the Second Circuit said in *United States v. Thomas,* 282 F.2d 191, 194, "Border-line situations should be resolved by the trial judges and not by Government agents; hence it would be the better practice to preserve the written notes taken of interviews with persons accused or suspected of crime." In the *Thomas* case the Court said, "The notes had been destroyed and with no intent to suppress evidence." There, as in this case, a typewritten interview report was prepared by the agent who testified that he checked the report against his notes for accuracy and thereafter the agent destroyed the notes.

The fact that FBI agents in *Campbell,* in *Thomas,* and in this case all followed the same procedure of destroying the written notes of their interviews after preparation of interview reports, suggests (1) the agents did not violate administrative policy by doing so but on the contrary they were following administrative policy; and (2) the purpose of that administrative policy necessarily must be to make it impossible for defense counsel to cross-examine a Government agent with respect to the accuracy of his notes made contemporaneously during the course of an interview, as in this case, and to force acceptance by the jury of an agent's testimony as to alleged statements made to him by a witness or a defendant when confirmed by an interview report or a narrative statement. Such a policy prevents any inquiry or verification of the accuracy of the interview, report or narrative statement. Such a policy may be deemed directed to the suppression of evidence.

It is submitted that such an administrative policy of the Federal Bureau of Investigation is dangerous and prejudicial to the rights of the accused in the Federal district courts. Accordingly, it is submitted that the words in 18 U.S.C. Sec. 3500 requiring the United States to produce "any statement . . . of the witness in the possession of the United States" should be deemed to include all written contemporaneous interview notes of a Government agent which have been deliberately destroyed by the agent.

It is submitted, therefore, that this Motion to strike the testimony of each FBI agent should be granted.

(Denied.)

George Cochran Doub,

Attorney for Thomas F. Johnson

Of Counsel:

Weinberg and Green

REQUESTS FOR INSTRUCTIONS TO THE JURY BY DEFENDANT JOHNSON

General

Circumstantial Evidence

B. The Court instructs the Jury that there is no direct evidence in this case that the Defendant Johnson conspired with any other defendants to defraud the United States, or that he conspired to make a speech for compensation as a part of the alleged conspiracy, or that he conspired with any of the other defendants to influence the officials of the Department of Justice under the First Count of the Indictment, or that he was compensated or promised compensation for his visits to the Department of Justice under each of the substantive counts of the Indictment. The Government's case under each Count of the Indictment is based upon circumstantial evidence.

The Court instructs the Jury that circumstantial evidence is that evidence which tends to prove a disputed fact by proof of other facts which have a legitimate tendency to lead the mind to the conclusion that the fact exists which is sought to be established. ((Bouvier's Dictionary). Circumstantial evidence is that which establishes the fact to be proved only through inference based on human experience that a certain circumstance is usually present when another certain circumstance or set of circumstances is present. Direct evidence establishes the fact to be proved without the necessity for such inference. *Radomsky v. United States,* 180 F.2d 781, 783 (1950, 9th Cir.)

The Court instructs the Jury that whenever a circumstance relied on as evidence of criminal guilt is susceptible of two inferences, one of which is favorable to innocence, such circumstance is robbed of all probative value and is insufficient to support a judgment of guilt. *Calvaresi v. United States,* 216 F. 2d, 891, 905 (1954, 10th Cir.)

SUBSTANTIVE COUNTS

Second Count

1. The Court instructs the Jury that, if they find that Johnson did not knowingly receive the check of Robinson dated March 31, 1961, in the sum of $800.00 as compensation for services rendered or to be rendered before the Department of Justice, the Jury must return a verdict as to him of NOT GUILTY.

Third Count

2. The Court instructs the Jury that, if they find that Johnson did not knowingly receive the check of First Continental Savings and Loan Association dated May 2, 1961, in the sum of $3,500.00 as compensation for services rendered or to be rendered before the Department of Justice, the Jury must return a verdict as to him of NOT GUILTY.

FOURTH COUNT

3. The Court instructs the Jury that, if they find that Johnson did not knowingly receive the check of First Continental Savings and Loan Association dated May 25, 1961, in the sum of $2,500.00 as compensation for services rendered or to be rendered before the Department of Justice, the Jury must return a verdict as to him of NOT GUILTY.

FIFTH COUNT

4. The Court instructs the Jury that, if they find that Johnson did not knowingly receive the check of First Continental Savings and Loan Association dated June 7, 1961, in the sum of $4,000.00 as compensation for services rendered or to be rendered before the Department of Justice, the Jury must return a verdict as to him of NOT GUILTY.

SIXTH COUNT

5. The Court instructs the Jury that, if they find that Johnson did not knowingly receive the check of First Continental Savings and Loan Association dated June 28, 1961, in the sum of $3,250.00 as compensation for services rendered or to be rendered before the Department of Justice, the Jury must return a verdict as to him of NOT GUILTY.

SEVENTH COUNT

6. The Court instructs the Jury that, if they find that Johnson did not knowingly receive the check of Robinson dated August 4, 1961, in the sum of $2,000.00 as compensation for services rendered or to be rendered before the Department of Justice, the Jury must return a verdict as to him of NOT GUILTY.

EIGHTH COUNT

7. The Court instructs the Jury that, if they find that Johnson did not knowingly receive the check of Robinson dated September 12, 1961, in the sum of $1,500.00 as com-

pensation for services rendered or to be rendered before the Department of Justice, the Jury must return a verdict as to him of NOT GUILTY.

8. The Court instructs the Jury that a person who is an attorney as well as a member of Congress may practice law and may represent an accused with respect to a pending criminal case for compensation. If the Jury finds that Johnson did knowingly receive any check in evidence in this case as compensation for his visits to the Department of Justice, they must return a verdict of NOT GUILTY if they further find that Johnson was representing First Colony Savings and Loan Association, a Defendant in the mail fraud case and he told the Justice officials that he was attorney for First Colony Savings and Loan Association.

9. The Court instructs the Jury that, if they find the checks in evidence were received by Johnson as compensation for bona fide legal services rendered by him to the savings and loan associations and later to the land companies, as testified to by Johnson and Robinson, then they should return a verdict of NOT GUILTY on each substantive count.

11. In determining (1) whether Johnson's legal services to the savings and loan associations and later the land companies were a sham and pretense and (2) whether Johnson knowingly received compensation for his visits to the Department of Justice, the Jury is instructed that the burden of proof is upon the Government to establish these facts to the Jury's satisfaction beyond a reasonable doubt and, if the Government has failed to establish those facts by a preponderance of the evidence or has left the minds of the Jury in doubt or uncertainty, then Johnson is entitled to a verdict of NOT GUILTY.

12. The Court instructs the Jury that, if they find that Johnson sincerely believed at the time the check specified in a substantive count was received by him as compensation for bona fide legal services rendered by him to the savings and loan associations or to the land companies and that

such check was not received by him as compensation for his visits to the Department of Justice, the Jury must find Johnson NOT GUILTY as to said substantive count.

13. The Court instructs the Jury that, if they find that Johnson sincerely believed at the time the check specified in a substantive count was received by him as compensation for bona fide legal services rendered by him to the savings and loan associations or to the land companies and that such check was not received by him as compensation for his visits to the Department of Justice, the Jury must find Johnson NOT GUILTY as to said substantive count even though the Jury believes that said payment was a large one for the legal services rendered.

14. The Court instructs the Jury that Attorney General Kennedy, Assistant Attorney General Miller and Defendants Johnson and Boykin all testified that at the meetings in the Department of Justice Johnson and Boykin said on several occasions that they sought a review of the mail fraud case on its merits and they did not wish to interfere in any way with the case and they were not asking any favors. It is also undisputed that matters were discussed at such meetings other than the mail fraud case. The Court instructs the Jury that, even though Boykin and Johnson may have hoped such a review on the merits by the Justice officials might result in the dismissal of the case, there is no evidence that these Defendants requested a dismissal of the case. If the Jury concludes that Johnson in his meetings at the Department of Justice only sought such a review of the mail fraud case on its merits, their verdict as to Johnson on each substantive count should be NOT GUILTY.

GEOPGE COCHRAN DOUB,

Attorney for Thomas F. Johnson

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15. The Court instructs the Jury that "services rendered" in relation to any proceeding in which the United

States is a party or is interested before any Government department or agency, as contained in 18 U.S.C. Sec. 281, means that a defendant, to violate the statute, must have been employed, or must have agreed to render such services at the time of or before he rendered the services, and if you find that this Defendant had not been employed or had not agreed to render such services, you should return a verdict of NOT GUILTY on each of the substantive counts.

REQUESTS FOR INSTRUCTIONS
THOMAS F. JOHNSON

As to any portions of the charge, the Court has stated it has given at the request of any defendant, this Defendant requests that the Court instruct the jury that such portions are as much a part of the charge of the Court as if they had originated with the Court and are just as binding on the jury.

Finnegan v. United States, 204 F.2d 105, 115 (8th Cir.)

The Court instructs the jury that the charge of a criminal offense contained in each count of the indictment rests upon circumstantial evidence and accordingly the rule with respect to circumstantial evidence requires that the circumstances be not only consistent with the guilt of the Defendant Johnson but shall be inconsistent with any other reasonable theory than that of guilt; and if you find that the circumstances are as consistent with his innocence as with his guilt, you should return a verdict of Not Guilty.

Underhill's *Criminal Evidence*, Sec. 19.

The Court instructs the jury that the prosecution must establish beyond a reasonable doubt certain essential elements under any of the substantive counts. And if the prosecution fails to do so, you must return a verdict of Not Guilty.

Those essential elements are:

(1) That the Defendant Johnson received, directly or indirectly, all or a substantial part of the proceeds of the check described in each count, as compensation for services rendered by him in connection with his meetings with the Attorney General or the Assistant Attorney General in charge of the Criminal Division.

(2) The Defendant Johnson knowingly, deliberately and intentionally received such compensation for services before the Department of Justice which he knew had been thus rendered during the period he was a member of Congress.

(3) That such compensation was received in return for services rendered for the purpose of interceding with, and with the intent to influence and persuade, officers of the Department of Justice, to obtain the dismissal of the pending mail fraud indictment against Mr. Edlin and First Colony.

United States v. Quinn, 141 F. Supp. 622 (D.C. N.Y. 1956).

The Court instructs the jury that "services rendered" in relation to any proceeding in which the United States is a party or is interested before any Government department or agency, as contained in 18 U.S.C. Sec. 281, means that a defendant, to violate the statute, must have been employed, or must have agreed to render such services at the time of or before he rendered the alleged services, and if you find that this Defendant had not been employed or had not agreed to render such services, you should return a verdict of Not Guilty on each of the substantive counts.

The Court instructs the jury that "compensation" as used in the statute means the payment of the proceeds of the check described in each substantive count, or a substantial part thereof; and, if you find that the Defendant Johnson did not receive the proceeds of that check or any substantial part thereof as compensation for his visits with

officials of the Department of Justice, you must return a verdict of Not Guilty.

MOTION OF THOMAS F. JOHNSON FOR A JUDGMENT OF ACQUITTAL, NOTWITHSTANDING THE VERDICTS AND, IN THE ALTERNATIVE, MOTION FOR NEW TRIAL.

The Defendant, Thomas F. Johnson, by his attorneys, moves this Honorable Court for a judgment of acquittal, notwithstanding the verdicts of the jury, and, in the alternative, that this Honorable Court, in the interest of justice, grant to such Defendant a new trial for the following reasons:

A. The Court erred in denying Defendant's motion for acquittal made at the conclusion of the evidence.

B. The verdicts are contrary to the weight of the evidence.

C. The verdicts are not supported by substantial evidence.

D. The Court erred in denying all previous motions made on behalf of the Defendant, and the Defendant adopts, by reference in this motion, all past motions made by him in this case.

1. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, on the ground that the Count questions in a place other than the House of Representatives the speech of Congressman Thomas F. Johnson in the House of Representatives in violation of Section 6, Clause 1, of the Constitution of the United States. The Court should have granted the pre-trial motion of this Defendant to dismiss the First Count upon this constitutional ground. Under the Constitution this Court had no jurisdiction over the allegations of the First Count of the Indictment with respect to the speech of Congressman

Johnson. The constitutional prohibition was absolute and unqualified in its terms and made no distinction between a speech made for a good purpose or a bad purpose or an improper purpose.

2. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, on the ground that said First Count violated the Sixth Amendment of the Constitution of the United States, and the due process clause of the Constitution by depriving this accused of his right "to be informed of the nature and cause of the accusation . . . " by charging this Defendant with participation in a conspiracy, the purposes of which were so vague, indefinite and unintelligible that this Defendant was not apprised of the offense charged. The Indictment charged this Defendant with participation in a conspiracy to defraud the United States of the faithful services of its administrative officers and the faithful services of Congressman Johnson and Congressman Boykin. The alleged purposes of the conspiracy are so imprecise as to afford no standards for the admissibility of evidence or the determination of the sufficiency of evidence. They fail to meet any sensible standards of clarity or definiteness. The Court should have granted the pre-trial motion of this Defendant to dismiss the First Count upon this constitutional ground. The validity of the conspiracy charge, under established principles of construction, should have been evaluated by the Court in terms of these purposes as stated in Paragraph (14) of the First Count, and not under the allegations of Paragraphs (15) to (25) which purported to embody the means whereby the Defendants carried out the conspiracy.

3. Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, on the ground that the Government charged a conspiracy to defraud the United States of the faithful services of its officers rather than a conspiracy to commit a specific offense against the United States, namely, a conspiracy to violate 18 U.S.C. Sec. 281, for the purpose of

enabling the Government to impeach the speech of Congressman Johnson in the House of Representatives on June 30, 1960 and to create a non-existent offense as to the visits to Justice in 1961. As a consequence the Government was enabled to utilize the First Count to submit evidence and contend and argue that Johnson conspired to make a speech for compensation on June 30, 1960, and that the Defendants in connection with the visits of Boykin and Johnson to the Department of Justice in 1961 conspired to influence Justice officials even though no compensation to them was involved.

4. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, on the ground that said First Count charged two or more offenses in violation of Rule 8(a) of the Federal Rules of Criminal Procedure, namely, the Government in fact charged in a single count several separate conspiracies: (1) a conspiracy to defraud the United States of the faithful services of Congressman Johnson by the making of a speech in the House of Representatives on June 30, 1960 and (2) a conspiracy to defraud the United States of the faithful services of the Attorney General and the Assistant Attorney General in charge of the Criminal Division by the visits of Johnson and Boykin to the Department of Justice from March 1961 to October 1961.

5. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, on the ground that said First Count charges in a single count several separate conspiracies in time and membership: one conspiracy relating to an alleged agreement in June, 1960, that this Defendant as a member of the House of Representatives would not act impartially, free from influence in relation to matters pending in the House of Representatives and the other a conspiracy relating to an alleged agreement in March, 1961, to exert influence for compensation upon officers of the Department of Justice.

6. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, on the ground that the First Count was fatally defective by reason of its duplicity.

7. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, upon the ground that the evidence was not sufficient to sustain a conviction of the offense charged.

8. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, upon the ground that there is no sufficient evidence to show that, from on or about April 1, 1960, until on or about December 31, 1961, or during any lesser period, the Defendants conspired to defraud the United States of its governmental functions and rights described in the First Count of the Indictment.

9. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, upon the ground that there is not sufficient evidence to show that it was a part of the conspiracy that this Defendant should, at the request of Defendants Edlin and Robinson, make for compensation a speech in the House of Representatives defending the operations of Maryland's independent savings and loan associations.

10. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, upon the ground that there is not sufficient evidence to show that it was a part of the conspiracy that Edlin and Robinson and the savings and loan associations would pay money or other valuable considerations of this Defendant to influence the officials of the Department of Justice to promote the interests of Edlin, Robinson, etc.

11. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, not-

withstanding the verdict, upon the ground that the evidence is not sufficient to show that, as a part of the conspiracy, this Defendant attempted to defraud the United States of the faithful services of the officials of the Department of Justice. The Attorney General and the Assistant Attorney General in charge of the Criminal Division both testified that the Defendants Johnson and Boykin asked for a review of the mail fraud case upon its merits and repeatedly stated that they did not wish to ask any favors or to interfere in the case. The undisputed evidence indicated that, although these Defendants hoped that a review upon the merits of the case would result in the dismissal of the mail fraud indictment against Edlin and First Colony, they made no improper proposals to these high-ranking Department of Justice officials.

12. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, upon the ground that the evidence is not sufficient to show that the Defendants conspired from about April 1, 1960, until about December 31, 1961, or during any lesser period, to defraud the United States of the faithful services of its officers.

13. The Defendant Johnson moves for a judgment of acquittal under the First Count of the Indictment, notwithstanding the verdict, on the ground that the First Count charges an alleged conspiracy "to defraud the United States or any agency thereof" under 18 U.S.C. Section 371. As used in the statute, the words "to defraud the United States or any agency thereof" mean to cheat the Government out of property, money or taxes or to obstruct Governmental functions by deceit, trickery, misrepresentations or false statements. There was no sufficient evidence in this case that Johnson did conspire to defraud the United States or any agency thereof within the meaning of the statute. The motion of Johnson for a directed verdict upon this ground should have been granted.

14. The Defendant Johnson moves for a judgment of acquittal on each of the substantive counts, notwithstanding

the verdict, upon the ground that the *allegations* of each substantive count failed to show venue of the offense in the District of Maryland. The pre-trial motions of the Defendants attacking venue should have been granted.

15. The Defendant Johnson moves for a judgment of acquittal on each of the substantive counts, notwithstanding the verdict, upon the ground that the *evidence* was not sufficient to show venue of the offense in the District of Maryland. The motions for directed verdicts upon this ground at the conclusion of the evidence should have been granted.

16. The Defendant Johnson moves for a judgment of acquittal on each of the substantive counts, notwithstanding the verdict, upon the ground that the evidence was not sufficient to show that the check specified therein, or the proceeds thereof, was received by Johnson as compensation for services rendered before the Department of Justice. There was no testimony in this case that such check was received for such a purpose and the uncontradicted testimony was to the contrary. The motions of the Defendants for directed verdicts upon this ground at the conclusion of the evidence should have been granted.

17. Government counsel permitted certain Government witnesses to read the transcript of their testimony before the Federal grand jury in preparation for their testimony at the trial. This breach of the secrecy of the grand jury proceedings was not sanctioned by Rule 6 of the Federal Rules of Criminal Procedure. This dangerous and unwarranted practice required the Court to exclude or strike all testimony of such Government witnesses.

18. The Court was in error in denying the motion of this Defendant to preclude the Government from using upon his cross examination the testimony of Johnson before the Federal grand jury. This case had been before the grand jury from December 1961 until October 16, 1962, when the indictments were returned. Johnson testified before the Federal grand jury on September 21, 1962 and

Boykin on October 11, 1962, shortly before the indictments were returned.

The Assistant Attorney General in charge of the Criminal Division visited Johnson on January 3, 1962, and told him that the Department had commenced an investigation but he was hopeful and expected that the investigation would come to nothing.

After Justice officials had prepared drafts of indictments, bearing the names of the Defendants, and the United States Attorney had recommended to Justice an indictment of Johnson, the Deputy Attorney General of the United States made visits on August 27, 1962, September 13, 1962, September 14, 1962 and September 21, 1962, to Johnson to solicit his testimony before the grand jury and to induce and influence him to testify before the grand jury. The Deputy Attorney General made several similar visits to induce Boykin to testify before the Federal grand jury. In a case where Justice officials were contemplating and seeking an indictment against these Defendants, Johnson had a constitutional right to determine whether he would or would not testify before the Federal grand jury, free from any influence or solicitation by high-ranking Justice officials. Furthermore, the Deputy Attorney General was obligated to inform Johnson that Justice officials had prepared drafts of an indictment bearing his name and the United States Attorney had recommended the indictment of Johnson to Justice. It was not enough for the Deputy Attorney General to say to Johnson that he might be charged. Under the unorthodox and extraordinary circumstances here, the motion made on behalf of Johnson should have been granted and no questions upon cross examination predicated upon his Federal grand jury testimony should have been permitted (Tr. 3574-3782).

19. The Court was in error in denying the motions of the Defendants to strike the testimony of FBI agents Robert F. Milne as to statements made to him by the witness Manuel Buarque on January 11, 1962, and of James

C. Strickland, Jr. as to statements made to him by the Defendant Robinson on January 27, 1962 (Tr. 5468-5513). The agents testified that they had made contemporaneously pencil notes of statements made in the course of the interviews, that later they had dictated official reports of the interviews in narrative form from these notes; and that the narrative statements contained in the reports were not verbatim statements from the notes recorded during the interviews and did not represent a reproduction of the notes (Tr. 5484). After checking the reports with their notes for accuracy, they then destroyed the notes in accordance with Bureau policy. Government counsel stated for the record that the notes were destroyed pursuant to instructions contained in the FBI manual (Tr. 5503) apparently issued after the enactment of the Jencks Act (Tr. 5504-5505).

These interviews by the FBI agents were evidently conducted as a part of the investigation which resulted in the indictment of the Defendants in October 1962 and after the grand jury in December 1961 began hearing testimony with respect to the subject matter of the indictment. It may be assumed that the special agents knew at the time they destroyed their notes of the interviews that their testimony might be later used before the grand jury and, in the event of an indictment, at the trial of this case.

When notes contemporaneously made in an FBI interview are not in the possession of the Government because they have been inadvertently lost, mislaid, misfiled or destroyed, they may not be deemed in the possession of the Government under 18 U.S.C. 3500 and need not be produced. *Campbell v. United States*, 365 U.S. 85, 102. However, when a Government agent deliberately destroys his notes pursuant to a policy of his administrative agency or instructions of that agency, an inevitable inference is that the purpose of such a policy is to prevent an accused from verifying the accuracy of narrative statements contained in the official report with the notes contemporaneously made. In *Wilson v. United States*, 162 U.S. 613, 621, the

Supreme Court said that the destruction or suppression of evidence by an accused gives rise to a presumption of guilt. Unless an alien concept of infallible statism is to be exalted, the deliberate destruction by Government agents of evidence pursuant to administrative policy must be deemed also an improper suppression of evidence so repugnant to fair play and a fair trial that 18 U.S.C. 3500 should be interpreted as making the testimony of the Government agents inadmissible. Defendants' motions to strike the testimony of such witnesses should have been granted.

20. The vilification of Johnson by Government counsel in summation to the jury was so improper and so prejudicial to Johnson as to require a new trial. In addition to intemperate abuse heaped upon Johnson, Government Counsel represented to the jury that Johnson had destroyed three important letters in March 1961 from Robinson to Johnson and had fabricated three letters dated August 25, 1960, May 22, 1961 and October 16, 1961, from Johnson to Robinson. There was no evidence to support these accusations. The Court should have granted motions by counsel for Johnson that the Court instruct the jury that there was no evidence to sustain these assertions of Goverment counsel and the jury should disregard them. There is attached hereto and made a part hereof an affidavit of Miss Breda Fermoyle, who was employed by Johnson in his congressional office from April 1961 until January 1963, whose initials appeared on the letters of May 22, 1961 and October 16, 1961.

21. It was prejudicial error for the Court to refuse to grant Johnson's requested instructions with respect to circumstantial evidence, i.e., Johnson's request B under the heading "General" (Tr. 6307).

22. It was prejudicial error for the Court to refuse to grant Johnson's requested instruction No. 11 under the heading "Substantive Counts" referring to the contention of the Government that Johnson's legal services to the

savings and loan associations and later the land companies were a sham and pretense (Tr. 6309).

23. It was prejudicial error for the Court to refuse to grant Johnson's requested instruction No. 12 under the heading "Substantive Counts" (Tr. 6310).

24. It was prejudicial error for the Court to refuse to grant Johnson's requested instruction No. 14 stating, in part, that, if the jury concluded that Johnson in his meetings at the Department of Justice only sought a review of the mail fraud case on its merits, their verdict as to Johnson on each substantive count should be "Not Guilty" (Tr. 6311).

25. There was prejudicial error in the Court's instructions to the jury that Paragraphs (15) to (25) (instead of Paragraph (14)) of the Indictment contained the purposes and objectives of the conspiracy (Tr. 6311).

26. There was prejudicial error in the failure of the Court to charge that, if the jury found there were two conspiracies and not one, then the Defendants should be acquitted (Tr. 6312).

27. There was prejudicial error in the charge of the Court to the jury defining the term "services rendered or to be rendered" as used in 18 U.S.C. Sec. 281, namely, that "services" were "broad enough to embrace any conscious and wilful effort and act to aid, assist and promote the interest of the party before a governmental department or agency" (Tr. 6291).

28. There was prejudicial error in the charge of the Court to the jury that, if the jury found from the evidence that Johnson was appearing before the Department of Justice as an attorney for Edlin or First Colony in the pending criminal case and disclosed to its officials that he was so appearing or visiting them rather than as a Congressman "with no personal or pecuniary interest in the matter", then, in that event, it would not be a violation of

Section 281 for Johnson to have requested a review of the indictment by the Department, etc. "so long as he did not attempt to bring the influence of his office as a Congressman to bear on the officials of the Department to secure a dismissal of the indictment or postponement of the case" (Tr. 6293-4). The expression quoted above "with no personal or pecuniary interest in the matter" is far broader than the terms of the statute, 18 U.S.C. Sec. 281. The final proviso of the instruction should not have been included. This proviso tended to emasculate the right of an attorney, who is a member of Congress, to act in a criminal case. Furthermore, an "attempt to bring the influence of his office as a Congressman to bear on the officials of the Department" without definition was unsound.

29. There was prejudicial error in the Court's charge to the jury that the jury must consider whether each check in evidence referred to in the substantive counts "was given in whole or in substantial part for services rendered by Johnson before the Department of Justice", and the Court's definition that "substantial part" did not mean any particular percentage of the check but a significant part as distinguished from an insignificant or inconsequential part, etc. (Tr. 6295-6; 6315). Since each substantive count of the Indictment charged that a specific check was received as compensation, etc., the Government was obligated to prove that each check in full was so given.

30. After the jury retired to consider its verdict, its foreman asked, on behalf of the jury, for a copy of the written instructions of the Court (Tr. 6330). Mr. Genn objected on behalf of Mr. Edlin (Tr. 6332). The jury were brought back and the Court told the jury that there was a difference of opinion among the lawyers as to whether it should be done or not, that although it was not customary to do it, the Court had a right to do so, but he was loath to do it "over the objection of some of the Defendants". This was prejudicial error.

31. This Defendant adopts the motions for a new trial

and for a judgment of acquittal, and the grounds stated therefor, notwithstanding the verdicts of the jury, made on behalf of the Defendants Boykin and Edlin.

GEORGE COCHRAN DOUB,

Attorney for Thomas F. Johnson

Of Counsel:

WEINBERG AND GREEN

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be delivered copies of the foregoing Motion to Joseph D. Tydings, United States Attorney for the District of Maryland, at the Post Office Building, Baltimore, Maryland, this 10th day of July, 1963.

GEORGE COCHRAN DOUB

Attorney for Thomas F. Johnson

AFFIDAVIT

I, BRENDA FERMOYLE, having been duly sworn, do hereby certify as follows:

I was employed by Congressman Thomas F. Johnson of Maryland, in his congressional office at the Capitol, from April 1961 until January 1963. During that period I acted as a receptionist and occasionally did stenographic work for the Congressman, although I was not an excellent typist.

During the trial of Mr. Johnson, I was interviewed on numerous occasions by agents of the Federal Bureau of Investigation who repeatedly questioned me concerning letters of Mr. Johnson, including thermofax copies of two letters of Mr. Johnson to Mr. William L. Robinson of Miami, Florida, one dated in May 1961 and the other later in 1961. Both letters bore my initials. I do not recall their dates but the typing of "1961" on each letter contained a

capital "I" for the number "1". In addition I was interviewed at length by Joseph Tydings, United States Attorney for the District of Maryland, and Assistant United States Attorneys Marion, Weiner, and Bennett in Baltimore, and was questioned by them with respect to such letters. I was urged to say by Mr. Tydings' associates that I had not typed these letters for Congressman Johnson, but I stated that to the best of my knowledge I had typed the letters although I did not specifically recall them.

/s/ BRENDA FERMOYLE

District of Columbia: ss:

I HEREBY CERTIFY That, on this 9th day of July, 1963, before me the subscriber, a Notary Public in and for the District of Columbia, personally appeared Brenda Fermoyle and made oath in due form of law to the foregoing statement.

MARY JO FREEHILL

Notary Public

My Commission expires April 14, 1965.

[Tr. 6000-6004]

PROCEEDINGS

(The jury was not present.)

(Mr. Doub) If Your Honor please, I wish to make three motions based upon the argument of the Assistant United States Attorney yesterday.

In the course of his argument he charged—

(The Court) What page? What page?

(Mr. Doub) I don't have the page. My notes show it very clearly, and Your Honor will recall it immediately.

He charged that Mr. Johnson had destroyed—

(The Court) Just a minute.

(Mr. Doub) I will get it.

—had destroyed three letters deliberately dated in March from Mr. Robinson addressed to him.

Now, Mr. Johnson testified that he could not find the originals of those letters but he believed that he had received them; so there was no dispute in the case, Your Honor, that Mr. Johnson had received the letters.

His charged therefore before the jury that Mr. Johnson had destroyed those letters was not supported by any evidence in the record, and my first motion is that you instruct the jury that there is no evidence that Mr. Johnson did so and they should disregard that argument.

My second motion is based upon the following charge by Mr. Marion before the jury. He stated that Mr. Johnson—

(The Court) Do you have a reference to the page?

(Mr. Doub) No, but Your Honor will recall it immediately.

(The Court) I know but I have got to have the page before there can be any action taken.

(Mr. Doub) Well, Your Honor can reserve ruling on it.

(The Court) Will you find the page for me?

(Mr. Doub) Yes.

(The Court) I want you to make your motions now, and then find the pages and let me have them.

(Mr. Doub) Yes, sir.

Mr. Marion charged before the jury that Mr. Johnson had fabricated two letters addressed to Mr. Robinson, one dated in May and one dated in October, 1961. He was referring to thermofax copies of letters which the Government had put in evidence.

He said that Mr. Johnson had obstructed justice and had attempted to defraud the Government by manufacturing those letters.

There is not one word of evidence in this record, Your Honor, that Mr. Johnson did so.

(The Court) I don't thing those were his exact words, you mean that is the effect of it.

(Mr. Doub) I think he used those words.

(Mr. Tydings) We will have something to say when Mr. Doub finishes.

(Mr. Doub) You will recall that on the cross-examination of Mr. Johnson by the Government that the Government put those thermofax copies in evidence and asked Mr. Johnson if it were not true that he had written those letters in 1962 and pre-dated them, and he said, "Absolutely not."

I did not object to that question because it was the kind of question that defense counsel could not possibly object to; but I assume that the Government could never have asked such a highly prejudicial question unless it intended to follow it up and show that they had been fabricated by the testimony of the secretary in Washington of Mr. Johnson whose initials were on the letter. They failed to follow it up.

And they failed to offer any evidence that they were fabrications. I say that that argument was so highly prejudicial that I move that Your Honor instruct the jury that there is no evidence to support that charge.

Now, my third motion, Your Honor, which I suggest that Your Honor not rule on but reserve ruling until after the verdict of the jury because we are here hoping for vindication and acquittal.

And that is the motion for mistrial on the ground that the Assistant United States Attorney yesterday made these unjustified highly prejudicial statements to the jury that I have just referred to; but in addition to that he ..... and degraded Mr. Johnson, he violated the principles defined by the Supreme Court in the Berger case where the Supreme Court that the Government may strike hard blows but it

may not strike foul blows, blows below the belt, and I say that was done in this case.

In several instances he misrepresented the record to the jury. In talking about Cassell, for instance, he said Cassell and his lawyer never knew anything about it, referring to Johnson's legal work.

They didn't bring Cassell here to testify and they didn't bring his lawyer here to testify, and it was totally unjustified.

(Mr. Tydings) Robinson testified.

(Mr. Doub) He also stated Mr. Boykin said, he was quoting Boykin as follows, Mr. Boykin said, "He had boosted Johnson to Edlin to get compensation for his visits to Justice."

Frank Boykin never said that, never said that. It is a distortion of the record.

He also said before this case Johnson consistently said he had never represented First Colony and First Continental, and I deny that that was an accurate statement.

So I say, Your Honor, that those vilifications of Mr. Johnson by Mr. Marion was worse, far worse than anything that was done by the prosecutor in the Berger case.

(The Court) Since it is now ten o'clock and I came on early in order to hear Mr. Doub's motion and since Mr. Doub has not given record references but has agreed to supply them, I am not going to call on the Government to answer to that motion at this time.

I have arranged to have Mr. Owens come in and take this. Mr. Owens will go out now and write this motion up immediately so that the Government may have an opportunity to consider and to answer it, and if either side cares to present some sort of a draft of what you think should be said in some sort of informal fashion, I will be glad to consider that. I don't want any formal prayers but I just want to get a general idea of what each side thinks might be said if anything should be said.

All right.